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NUCLEAR REGULATORY COMMISSION

10 CFR Part 51

[NRC–2018–0296]

RIN 3150–AK32

Renewing Nuclear Power Plant Operating Licenses—Environmental Review; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a final rule that was published in the **Federal Register** on August 6, 2024, regarding the amendment of NRC's environmental protection regulations to update the Commission's 2013 findings on the environmental effect of renewing the operating license of a nuclear power plants. This action is necessary to correct formatting errors.

DATES: The correction takes effect on September 5, 2024.

ADDRESSES: Please refer to Docket ID NRC–2018–0296 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–2018–0296. Address questions about NRC dockets to Helen Chang; telephone: 301–415–3228; email: Helen.Chang@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

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Yanely Malave-Velez, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–1519, email: Yanely.Malave-Velez@nrc.gov; Jennifer Davis, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–3835, email: Jennifer.Davis@nrc.gov; or Kevin Folk, Office of Nuclear Material Safety and Safeguards, telephone 301–415–6944, email: Kevin.Folk@nrc.gov. All are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: The NRC may post materials related to this document, including public comments, on the Federal rulemaking website at <https://www.regulations.gov> under Docket ID NRC–2018–0296. In addition, the Federal rulemaking website allows members of the public to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) navigate to the docket folder (NRC–2018–0296); (2) click the "Subscribe" link; and (3) enter an email address and click on the "Subscribe" link.

In the interest of clarity and transparency, the NRC is correcting the attachment to the final rule, published at 89 FR 64166 on March 14, 2023, to distinguish the quoted material. The text is unchanged.

Correction

In FR Doc. 2024–16643, published at 89 FR 64166 on August 6, 2024, on page 64197, the section titled "Separate Views of Commissioner Caputo on Renewing Nuclear Power Plant Operating Licenses—Environmental Review," following the **NOTE** is corrected to read as follows:

Separate Views of Commissioner Caputo on Renewing Nuclear Power Plant Operating Licenses—Environmental Review

The purpose of the first license renewal generic environmental impact statement (LR GEIS) in 1996 was to improve regulatory efficiency in environmental reviews for license renewals ". . . by drawing on the considerable experience of operating nuclear power reactors to generically assess many of the environmental impacts that are likely to be associated with license renewal" resulting lower costs for both license renewal applicants and the agency.⁶ The use of the LR GEIS was expected to result in improved focus on significant case specific concerns a more effective NEPA review for each license renewal.

Today the Commission finalizes the rulemaking "Renewing Nuclear Power Plant Operating Licenses—Environmental Review" with all Commissioners agreeing that Revision 2 to NUREG–1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants," appropriately considers the environmental impacts of license renewal of nuclear power plants licensed as of June 30, 1995. Because of this, licensees of such plants may rely on the LR GEIS in the preparation of their environmental reports under § 51.53(c) in connection with their applications for license renewal and subsequent license renewal. In addition, the NRC must prepare a supplement to the LR GEIS as a part of the environmental review of those applications.

This rulemaking was necessary because of the Commission's reversal in its adjudicative role of its prior holistic view of Part 51 in favor of a plain language reading of the wording of a single paragraph in the regulations.⁷ This action disrupted two renewed

⁶ Environmental Review for Renewal of Nuclear Power Plant Operating Licenses; Final Rule, 61 FR 28467, June 5, 1996.

⁷ *Florida Power & Light Co.* (Turkey Point Nuclear Generating Units 1 and 2), CLI–22–2, 95 NRC 26, 31–2 (2022) (ADAMS Accession No. ML22055A496) (holding the 2013 LR GEIS does not cover subsequent license renewal, stating section 51.53(c) narrows the scope only to those applicants seeking an *initial* renewed license, and acknowledging that there is language in the regulatory analysis for the 2013 revisions to Part 51 that would support a contrary interpretation).

licenses that had been issued.⁸ The Commission then initiated a rulemaking to remove the word “initial” to clarify the applicability of the LR GEIS for subsequent license renewals, dramatically increasing the staff’s environmental review workload with the additional work of the LR GEIS revision.

This action also precluded any subsequent license renewal applicants from using the LR GEIS in their applications while under revision, injecting considerable uncertainty into the nuclear planning process. As applicants wrestled with this protracted uncertainty, some potential applicants delayed filing their applications pending completion of the revision in order to rely on it. Others initially chose to delay and then apparently reconsidered, choosing instead to revise their applications to include a complete environmental report without the benefit of the LR GEIS. As business decisions were revised to address continuing uncertainty, the staff’s workload management was complicated further. As a result, the Commission has unjustifiably undermined the reliability of license renewal reviews and, thus, the stability of the nuclear operational and planning processes as noted in correspondence from Senators Capito and Ricketts:

The Commission’s misguided 2022 reversal of previously issued SLRs [subsequent license renewals] resulted in a cascading delay that impedes the ability for nuclear utilities to make long-term planning decisions and support those decisions with necessary investments.⁹

Unfortunately, the decision enshrined in this final LR GEIS fails to learn from this mistake and misses the opportunity to establish the stability of environmental reviews for a future, third round of license renewals.

In CLI–20–3, the Commission chose a holistic interpretation of the 2013 LR GEIS upholding its applicability for

subsequent license renewal and, indeed, any license renewal.^{10–11} The 2013 LR GEIS had long been expected to apply to subsequent license renewal since applications were anticipated in the near future. Indeed, the agency began receiving notices from the industry of the intent to file applications in 2015¹² with the first application filed in 2018.¹³ As noted above, one of the regulatory purposes in the initial codification of the LR GEIS was “to promote efficiency in the environmental review process for license renewal applications.”¹⁴ The reversal of CLI–20–03 strays from that regulatory purpose.

In SECY–22–0109, the staff had analyzed, recommended, and drafted the LR GEIS proposed rule to apply to any license renewal term (*i.e.*, initial, first SLR, or a term beyond the first SLR), excepting issues related to the Continued Storage Rule.¹⁵ Contrary to this and despite the omission of a regulatory analysis regarding the impact of limiting LR GEIS applicability to a single subsequent license renewal term, my colleagues chose to limit the applicability of the LR GEIS to a single term of subsequent license renewal. In his response to the staff’s recommendation, Chair Hanson stated the following:

The NRC’s regulatory framework for renewal anticipates that the LR GEIS will be reviewed and updated every ten years to account for new information and lessons learned. It is at this ten-year review that it is most appropriate to consider whether the scope of the LR GEIS should be expanded to

cover additional terms of license renewal beyond the first SLR.

It benefits the agency and the public it serves to use the ten-year review cycle of the LR GEIS as designed—to evaluate and incorporate new information gleaned from experience to generically address known impacts of continued operation.¹⁶

While this statement is true, the Commission had previously deferred the anticipated revision that should be underway in favor of addressing the consequences flowing from the Commission’s reversal of CLI–20–3.¹⁷

A concern has been raised that there is inherent uncertainty in estimating environmental impacts from continued contributions to onsite waste storage beyond the first term of subsequent license renewal. While this might be considered a potential inconsistency between the LR GEIS and the Continued Storage GEIS (NUREG–2157), I note that the staff’s recommendation specifically excepted issues related to the Continued Storage Rule.¹⁸

Thereafter, in SRM–SECY–22–0109, the Commission directed the staff to “modify the proposed rule and draft License Renewal GEIS to explicitly state that the scope of the GEIS is initial license renewal and one term of subsequent license renewal . . . but include in the **Federal Register** notice, a specific question asking whether the proposed rule should be expanded beyond two license renewal terms.”¹⁹

In response to the Commission’s direction in SRM–SECY–22–0109, the staff provided the draft final LR GEIS in SECY 24–0017, and described the significant work done to support this final version:

Lessons learned, knowledge gained, and experience from license renewal environmental reviews performed by the NRC staff since development of the 2013 LR GEIS provided an important source of new information for this assessment. In addition, new scientific research, changes in environmental regulations and impact methodology, and other new information were considered in evaluating the significance of impacts associated with initial LR and SLR. Public comments on previous plant-specific license renewal environmental

⁸ See *Florida Power & Light Co.*, CLI–22–2, 95 NRC at 36 (stating that the licensee could “maintain its current subsequently renewed licenses, but with shortened terms to match the end dates of the previous licenses (*i.e.*, July 19, 2032, and April 10, 2033, for Units 3 and 4, respectively) until completion of the NEPA analysis.”); *Exelon Generation Co.* (Peach Bottom Atomic Power Station, Units 2 and 3), CLI–22–4, 95 NRC at 44, 46 (2022) (modifying the expiration date of the licenses for Units 2 and 3 to 2033 and 2034, respectively).

⁹ Letter from Hon. Shelley Moore Capito, Ranking Member, Committee on Environment and Public Works and Hon. Pete Ricketts, Ranking Member, Subcommittee on Clean Air, Climate, and Nuclear Safety, Committee on Environment and Public Works, to Chairman Christopher T. Hanson (Nov. 1, 2023), available at <https://subscriber.politicopro.com/eenews/eenews/?id=0000018b-8b9a-da71-a98f-abff5d500000>.

¹⁰ *Florida Power & Light Co.* (Turkey Point Nuclear Generating Units 3 and 4), CLI–20–3, 91 NRC 133, 141 (2020) (agreeing with the Board’s determination that the regulatory language in section 51.53(c) is ambiguous and concurring that a holistic reading of Part 51 supports the conclusion that section 51.53(c) applies to all applicants for license renewal).

¹¹ The Commission’s decision in CLI–20–3 notes that “the Board was ‘guided by the Supreme Court’s approach in *Fed. Express Corp. v. Holowecki*, 552 U.S. 389 (2008)[.]’” *Florida Power & Light Co.*, CLI–20–3, 91 NRC at 140.

¹² See, e.g., Letter from Mark Sartain, Virginia Electric and Power Company, to NRC Document Control Desk (Nov. 5, 2015) (ML15314A078) (providing notification of intent to submit a second renewed operating license application for Surry Power Station Units 1 and 2 in the first quarter of 2019).

¹³ See Letter from Mano K. Nazar, Florida Power & Light Co. to NRC Document Control Desk, “Turkey Point Units 3 and 4 Subsequent License Renewal Application” (Jan. 30, 2018) (ML18037A824).

¹⁴ Environmental Review for Renewal of Nuclear Power Plant Operating Licenses; Final Rule, 61 FR 28467, 28468 June 5, 1996.

¹⁵ “Proposed Rule: Renewing Nuclear Power Plant Operating Licenses—Environmental Review (RIN 3150–AK32; NRC–2018–0296),” Commission Paper SECY–22–0109 (Dec. 6, 2022), at 6 (ML22165A003 (package)) (SECY–22–0109).

¹⁶ Commission Voting Record, “SECY–22–0109: Proposed Rule: Renewing Nuclear Power Plant Operating Licenses—Environmental Review, (Dec. 20, 2022), at 1 (ML23023A231) (Chair Hanson’s Notation Vote).

¹⁷ Staff Requirements—SECY–22–0036—Rulemaking Plan for Renewing Nuclear Power Plant Operating Licenses—10-Year Environmental Regulatory Update (NRC–2022–0087) (June 17, 2022) (ML2216A130).

¹⁸ SECY–22–0109 at 6.

¹⁹ Staff Requirements—SECY–22–0109—Proposed Rule: Renewing Nuclear Power Plant Operating Licenses—Environmental Review (RIN 3150–AK32; NRC–2018–0296) (Jan. 23, 2023) (ML23023A200 (package)).

reviews also were analyzed to assess the existing environmental issues and identify new ones. The purpose of this evaluation was to determine if the findings presented in the 2013 LR GEIS remain valid for initial LR and to update the analysis and assumptions to support one SLR term. In doing so, the staff considered the need to modify, add to, or delete any of the 78 environmental issues presented in the 2013 LR GEIS and codified in Table B–1. As a result of the detailed evaluation, the staff identified 80 environmental issues, which are considered in detail in the LR GEIS revision.

And:

In the revised LR GEIS, the staff used the following general analytical approach to evaluate potential environmental issues and the impacts associated with continued operations and any refurbishment: (1) describe the nuclear power plant activity or aspect of plant operations or refurbishment that could affect the resource; (2) identify the resource that is affected; (3) evaluate past license renewal reviews and other available information, including information related to impacts during an SLR term; (4) assess the nature and magnitude of the potential environmental effect (impact) on the affected resource; (5) characterize the significance of the effect; (6) determine whether the results of the analysis apply to all or a specific subset of nuclear power plants, *i.e.*, whether the issue is Category 1 (generic) or Category 2 (plant-specific); and (7) consider additional mitigation measures for reducing adverse impacts.²⁰

This is a nearly identical recitation of the description provided in SECY 22–0109 of the staff's effort which supported their recommendation that “. . . the LR GEIS apply to any license renewal term”.²¹ Hence, the work was nonetheless completed and supported the applicability to any license renewal, laying bare any concerns that addressing a third round of renewals in this revision wasn't practical given the urgent need to complete it. Clearly, the benefits of accepting the staff's sound technical judgement as expressed in SECY–22–0109 would have outweighed the costs of establishing the applicability of this LR GEIS to all SLR terms.

The Nuclear Energy Institute, representing industry stakeholders, agreed that this revision should apply to any license renewal term and cited the proposed LR GEIS statement that “[t]here are no specific limitations in the Atomic Energy Act [AEA] or the NRC's regulations restricting the

number of times a license may be renewed.”²² NEI also stated:

We believe that the LR GEIS provides a reasonable analysis of the environmental impacts of 20 years of reactor operation, irrespective of the prior number of years of reactor operation. Every license renewal review, regardless of term, requires a site-specific supplement to the LR GEIS (*i.e.*, SEIS), in which the NRC evaluates any issues not resolved generically by the GEIS. The NRC also evaluates any new and significant information. In addition, the NRC updates the GEIS roughly every 10 years to incorporate material new information and lessons learned. This review cycle is reasonable given that “changes in the environment around nuclear plants are gradual and predictable.” There for, limiting the applicability of the proposed rule and GEIS to one SLR term is not necessary as a technical or legal matter, and contravenes the NRC's Principles of Good Regulation.²³

In response to questions on the potential costs of limiting the applicability of the LR GEIS to one SLR, the staff identified 26 licensees that would be eligible to apply for a second SLR prior to their projected completion of the next revision to the LR GEIS. While licensees are allowed to apply for a license renewal up to 20 years in advance of the current license's expiration, the staff's projected completion date of the next LR GEIS revision in fiscal year 2034 would shorten the window for filing an application to as little as 10 years.²⁴ In contrast, the first SLR application was filed in 2018, 14 years prior to license expiration and applying the LR GEIS finalized 5 years earlier. Given the uncertainty plaguing the 2013 LR GEIS that is finally being resolved 11 years later in this revision and the cascade of delays undermining the stability of nuclear operational and planning processes, a projected completion date for the next revision does not inspire confidence and any delay in completing the revision would drive a bow wave of applications awaiting completion of the LR GEIS.

In its regulatory analysis of the rule, the staff estimated that it would need to review 44 applications for license renewal over the next 10 years. We have already seen delays in environmental

reviews due to limited staff resources.²⁵ In order to assist the agency in this area, Congress has worked to grant direct hiring authority in this area.²⁶ My colleagues propose that having the staff monitor interest in further license renewals and proposing to the Commission the short-cycling of revision of the LR GEIS would meet the needs to address their arbitrary decision. In my opinion, the net result of this would be a costly revisiting of the staff's hard look that was already completed to support the recommendation in SECY–22–0109. Further, this is wholly unnecessary given the fact that “environmental impacts of license renewal are expected to be bounded by data from operating experience given that license renewal is twenty years of continued operation, and our understanding that changes in the environment around nuclear plants are gradual and predictable.”²⁷ This is not good stewardship of staff resources that are already overextended and may be exacerbated if the agency begins receiving more applications for new plants.

Licensee concerns with regulatory stability in this area are clearly demonstrated in the comments provided on this rulemaking. Duke Energy noted the status of the NRC's ongoing review of the SLR application for Oconee Nuclear Station, for which the current schedule includes finalization of the Supplemental EIS after the projected issuance of this final rule.²⁸ In particular, Duke Energy expressed concerns that this could be construed as requiring further environmental reviews.²⁹

I recognize concerns regarding aging management and that research into the safety of operating from 80–100 years continues. However, this is an area the staff must address in the safety review rather than the environmental review process and will have no effect on the environmental issues resolved as Category 1 in this final LR GEIS. The environmental review pertains to the plant's impact on the environment as

²⁵ See, *e.g.*, Letter to Daniel Stoddard “Revision of Schedule for the Environmental Review of the North Anna Power Station, Units 1 and 2, Subsequent License Renewal Application (EPID Number: L–2020–SLE–0000) (Docket Numbers: 50–338 AND 50–339)” (Oct. 16, 2023), at 1 (ML23278A064).

²⁶ See H.R. 6544, Atomic Energy Advancement Act, § 103, “Strengthening the NRC workforce,” as referred to the Senate on February 29, 2024.

²⁷ Environmental Review for Renewal of Nuclear Power Plant Operating Licenses; Final Rule, 61 FR 28467, *et seq.*, June 5, 1996.

²⁸ See Letter from Thomas Ray, Duke Energy, to Secretary of the Commission, NRC (May 2, 2023), at (ML23122A311).

²⁹ *Id.* at 2.

²⁰ “Final Rule—Renewing Nuclear Power Plant Operating Licenses—Environmental Review (RIN 3150–AK32; NRC–2018–0296,” Commission Paper SECY 24–0017 (Feb. 21, 2024) at 3 (ML23202A179 (package)).

²¹ SECY 22–0109 at 4.

²² Letter from Jennifer Uhle, Nuclear Energy Institute, to Secretary of the Commission, NRC (May 2, 2023), at 3–4 (ML23123A407).

²³ *Id.* at 4 (internal citations omitted).

²⁴ R.E. Ginna, Nine Mile Point, Unit 1, and Dresden, Unit 2, all operate under licenses that expire in 2029. The lack of an applicable LR GEIS in the first five years of their eligibility to apply for renewal and the timely renewal provision in § 2.109(b) requiring application 5 years prior to license expiration result in this severe reduction of the window to apply.

distinct from the environment's impact on the plant which pertains to the safety review. There has been no sound argument presented that would link aging management to any of the LR GEIS issues. In addition, decades of operating experience since the first LR GEIS has demonstrated that experience has been consistent with the assumptions underlying license renewal.³⁰

Conclusion

Our Reliability Principle of Good Regulation states:

Once established, regulation should be perceived to be reliable and not unjustifiably in a state of transition. Regulatory actions should always be fully consistent with written regulations and should be promptly, fairly, and decisively administered so as to lend stability to the nuclear operational and planning processes.

In the wake of the Commission decision to reverse its prior decision, there have been a series of ramifications that have undermined reliability, created uncertainty for all stakeholders, and resulted in a significant increase in workload for the staff. The Commission, though constituted differently than the one that issued the reversal in 2022, must own accountability for the consequences of that decision and should take all the steps necessary to ensure that the rule it issues here cannot be subject to a similar treatment in the future. It is my view that this final rule should be modified to encompass any license renewal period, as the staff recommended,³¹ and that the revised final rule be provided to the Commission at least 10 business days prior to publication in the **Federal Register**.

Dated: August 8, 2024.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2024–18014 Filed 8–12–24; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–0542; Airspace Docket No. 24–AGL–8]

RIN 2120–AA66

Amendment of Class E Airspace; Cincinnati, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action updates the geographic coordinates of Cincinnati Municipal Airport/Lunken Field, Cincinnati, OH, and corrects a typographic error in the final rule amending the Class D Airspace and Class E Airspace at Cincinnati, OH.

DATES: Effective 0901 UTC, September 5, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11H, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** (89 FR 51960; June 21, 2024), amending the Class D and Class E airspace at Cincinnati, OH. Subsequent to publication, the FAA discovered a typographic error in the Class D and Class E airspace legal descriptions where “Notice to Missions” should be “Notice to Air Missions.” Additionally, the geographic coordinates of the Cincinnati Municipal Airport/Lunken Field were updated during the rulemaking process and require to be updated in the final rule. The geographic coordinates “(Lat. 39°06′12″ N, long. 84°25′07″ W)” should be updated to “(Lat. 39°06′11″ N, long. 84°25′03″ W).” This action does not

change the airspace dimensions or operating requirements.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to me, the Amendment of Class D and Class E Airspace; Cincinnati, OH, published in the **Federal Register** on June 21, 2024 (89 FR 51960), is corrected as follows:

§ 71.1 [Amended]

■ On page 51961, in column 2, under the heading “AGL OH D Cincinnati, OH [Amended]”, revise the geographic coordinates for Cincinnati Municipal Airport/Lunken Field, OH to read “(Lat. 39°06′11″ N, long. 84°25′03″ W)”.

■ On page 51961, in column 3, above the first row of asterisks, revised the text to read, “airspace area. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.”

■ On page 51961, in column 3, under the heading “AGL OH E2 Cincinnati, OH [Amended]”, revise the text to read:

Cincinnati Municipal Airport/Lunken Field, OH
(Lat. 39°06′11″ N, long. 84°25′03″ W)

That airspace within a 4.2-mile radius of the Cincinnati Municipal Airport/Lunken Field; and within 2 miles each side of the 024° bearing from the airport extending from the 4.2-mile radius to 5.9 miles northeast of the airport; and within 2 miles northwest and 1.7 miles southeast of the 064° bearing from the airport extending from the 4.2-mile radius to 5.3 miles northeast of the airport; and within 2.1 miles each side of the 204° bearing from the airport extending from the 4.2-mile radius to 6.2 miles southwest of the airport; and within 2 miles northwest and 1.7 miles southeast of the 244° bearing from the airport extending from the 4.2-mile radius to 5.2 miles southwest of the airport excluding that airspace within the Covington, KY, Class B airspace area. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Issued in Fort Worth, Texas, on July 24, 2024.

Martin A. Skinner,

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

[FR Doc. 2024–16658 Filed 8–12–24; 8:45 am]

BILLING CODE 4910–13–P

³⁰ *Florida Power & Light Co.* (Turkey Point Nuclear Generating Units 3 and 4), CLI–20–3, 91 NRC 133, 152 (2020).

³¹ See SECY–22–0109 at 6.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 31561; Amdt. No. 580]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: Effective 0901 UTC, September 5, 2024.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73169–6918. Telephone: (405) 954–1139.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95)

amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which

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

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on August 2, 2024.

Thomas J. Nichols,

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, 5 September 2024.

PART 95—IFR ALTITUDES

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, and 14 CFR 11.49(b)(2).

■ 2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT

[Amendment 580 effective date September 05, 2024]

From	To	MEA
Color Routes		
§ 95.5 Green Federal Airway G13 Is Amended To Delete		
ZOLMN, NC WP	MANTEO, NC NDB	2000 MAA—17500
§ 95.10 Amber Federal Airway A1 Is Amended To Delete		
U.S. CANADIAN BORDER	U.S. CANADIAN BORDER	2800 MAA—17500
U.S. CANADIAN BORDER	SITKA, AK NDB	*5200 MAA—17500
*2300—MOCA	SPARL, AK FIX	5200 MAA—17500
SITKA, AK NDB	OCEAN CAPE, AK NDB	*6000 MAA—17500
SPARL, AK FIX	CAPEM, AK FIX	*6000 MAA—17500
*2200—MOCA	CORVA, AK FIX	*6000 MAA—17500
OCEAN CAPE, AK NDB		
*2000—MOCA		
CAPEM, AK FIX		
*4400—MOCA		

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINT—Continued

[Amendment 580 effective date September 05, 2024]

From	To	MEA
CORVA, AK FIX	EGGER, AK FIX	2000
EGGER, AK FIX	ORCA BAY, AK NDB	MAA—17500
TAKOTNA RIVER, AK NDB	NORTH RIVER, AK NDB	5000
* 6000—MOCA	FORT DAVIS, AK NDB	MAA—17500
NORTH RIVER, AK NDB		*7000
		MAA—17500
		3000
		MAA—17500

§ 95.11 Amber Federal Airway A15 Is Amended To Delete

U.S. CANADIAN BORDER	NICHOLS, AK NDB	5000
NICHOLS, AK NDB	SUMNER STRAIT, AK NDB	MAA—17500
* 5100—MOCA		* 7000
* 6000—GNSS MEA		MAA—17500
SUMNER STRAIT, AK NDB	COGHLAN ISLAND, AK NDB	7000
COGHLAN ISLAND, AK NDB	HAINES, AK NDB	MAA—17500
* 8300—MOCA	U.S. CANADIAN BORDER	* 9000
HAINES, AK NDB	NABESNA, AK NDB	MAA—17500
* 9300—MOCA	DELTA JUNCTION, AK NDB	* 11000
U.S. CANADIAN BORDER		MAA—17500
* 6700—MOCA		* 8400
NABESNA, AK NDB		MAA—17500
		8000
		MAA—17500

§ 95.6 Blue Federal Airway B28 Is Amended To Delete

U.S. CANADIAN BORDER	NICHOLS, AK NDB	5000
NICHOLS, AK NDB	SITKA, AK NDB	MAA—17500
* 6000—MOCA		* 6900
* 6000—GNSS MEA		MAA—17500

§ 95.60 Blue Federal Airway B9 Is Amended To Delete

* DEEDS, FL FIX	MARATHON, FL NDB	** 2000
* 4000—MRA		MAA—17500
** 1500—MOCA		

From	To	MEA	MAA
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§ 95.3000 Low Altitude RNAV Routes

§ 95.3291 RNAV Route T291 Is Amended by Adding

TAR RIVER, NC VORTAC	COUPN, VA WP	1800	17500
COUPN, VA WP	HARCUM, VA VORTAC	1800	17500
SELINGSGROVE, PA VOR/DME	HYATT, PA WP	3800	17500
HYATT, PA WP	MEGSS, PA FIX	4000	17500
LAAYK, PA FIX	DANZI, NY FIX	4900	17500
DANZI, NY FIX	ALBANY, NY VORTAC	5600	17500

Is Amended To Delete

SELINGSGROVE, PA VOR/DME	MILTON, PA VORTAC	3800	17500
MILTON, PA VORTAC	MEGSS, PA FIX	4000	17500
LEDIE, NY WP	DELANCEY, NY VOR/DME	4900	17500
DELANCEY, NY VOR/DME	ALBANY, NY VORTAC	5600	17500

§ 95.3314 RNAV Route T314 Is Amended by Adding

KINGSTON, NY VOR/DME	PAWLN, NY WP	3000	17500
PAWLN, NY WP	STUBY, CT FIX	3300	17500
STUBY, CT FIX	SASHA, MA FIX	3700	17500
SASHA, MA FIX	TOMES, MA FIX	* 4100	17500
* 3500—MOCA			
TOMES, MA FIX	BARNES, MA VORTAC	3400	17500
GARDNER, MA VOR/DME	KENNEBUNK, ME VOR/DME	3500	17500

From	To	MEA	MAA
Is Amended To Delete			
GARDNER, MA VOR/DME	JOHNZ, NH FIX	3500	17500
JOHNZ, NH FIX	MANCH, NH FIX	* 2600	17500
* 2100—MOCA			
MANCH, NH FIX	KHRIS, NH FIX	2300	17500
KHRIS, NH FIX	RAYMY, NH FIX	* 2600	17500
* 2100—MOCA			
RAYMY, NH FIX	YUKES, NH WP	2300	17500
YUKES, NH WP	KENNEBUNK, ME VOR/DME	2600	17500
Is Amended To Read in Part			
BARNES, MA VORTAC	PUDGY, MA FIX	2900	17500
§ 95.3331 RNAV Route T331 Is Amended by Adding			
BYPOR, MN WP	U.S. CANADIAN BORDER	* 10000	17500
* 3400—MOCA			
Is Amended To Delete			
BYPOR, MN WP	MECNU, MN WP	* 10000	17500
* 3400—MOCA			
§ 95.3434 RNAV Route T434 Is Added To Read			
SCAAM, PA WP	WATSO, PA FIX	4700	17500
WATSO, PA FIX	HYATT, PA WP	3000	17500
HYATT, PA WP	BEERS, PA FIX	3700	17500
BEERS, PA FIX	SOLBERG, NJ VOR/DME	3300	17500
SOLBERG, NJ VOR/DME	TYKES, NJ FIX	* 2300	17500
* 1800—MOCA			
TYKES, NJ FIX	NECCK, NJ WP	2000	17500
§ 95.3440 RNAV Route T440 Is Amended by Adding			
STUBN, NY WP	BIPOD, PA WP	4000	17500
Is Amended To Delete			
ELMIRA, NY VOR/DME	BIPOD, PA WP	4000	17500
§ 95.3445 RNAV Route T445 Is Amended by Adding			
LYKOM, PA WP	STUBN, NY WP	4900	17500
STUBN, NY WP	BEEPS, NY FIX	4500	17500
Is Amended To Delete			
LYKOM, PA WP	ELMIRA, NY VOR/DME	4900	17500
ELMIRA, NY VOR/DME	BEEPS, NY FIX	4500	17500
Is Amended To Read in Part			
HARRISBURG, PA VORTAC	MORTO, PA FIX	3600	17500
MORTO, PA FIX	SELINSGROVE, PA VOR/DME	3300	17500
§ 95.3454 RNAV Route T454 Is Added To Read			
SCAAM, PA WP	* FAVUM, PA FIX	4600	17500
* 4500—MCA FAVUM, PA FIX, W BND			
FAVUM, PA FIX	ZIMEL, PA FIX	4400	17500
ZIMEL, PA FIX	WILLIAMSPORT, PA VOR/DME	4300	17500
WILLIAMSPORT, PA VOR/DME	MUNCI, PA FIX	4900	17500
MUNCI, PA FIX	SWANK, PA FIX	4800	17500
SWANK, PA FIX	WILKES-BARRE, PA VORTAC	4600	17500
WILKES-BARRE, PA VORTAC	HARTY, PA FIX	4600	17500
HARTY, PA FIX	MUGZY, NJ FIX	3500	17500
MUGZY, NJ FIX	NWTON, NJ WP	3200	17500
§ 95.3458 RNAV Route T458 Is Added To Read			
STUBN, NY WP	BINGHAMTON, NY VOR/DME	4600	17500
BINGHAMTON, NY VOR/DME	DANZI, NY FIX	4900	17500

From	To	MEA	MAA
DANZI, NY FIX	*PETER, NY FIX	5600	17500
*5700—MCA PETER, NY FIX, E BND			
PETER, NY FIX	AGNEZ, NY FIX	6300	17500
AGNEZ, NY FIX	*ACOVE, NY FIX	6300	17500
*6000—MCA ACOVE, NY FIX, W BND			
ACOVE, NY FIX	*ATHOS, NY FIX	5700	17500
*4400—MCA ATHOS, NY FIX, W BND			
ATHOS, NY FIX	*HIDAL, NY FIX	4100	17500
*4100—MCA HIDAL, NY FIX, E BND			
HIDAL, NY FIX	STELA, MA FIX	4500	17500
STELA, MA FIX	CHESTER, MA VOR/DME	4500	17500
CHESTER, MA VOR/DME	FAIDS, MA FIX	4000	17500
FAIDS, MA FIX	SPENO, MA FIX	2900	17500
SPENO, MA FIX	GLYDE, MA FIX	3100	17500
GLYDE, MA FIX	BOSTON, MA VOR/DME	3100	17500

§ 95.3467 RNAV Route T467 Is Added To Read

BERYL, UT FIX	*ELY, NV VOR/DME	13800	17500
*12200—MCA ELY, NV VOR/DME, SE BND			
ELY, NV VOR/DME	TESSA, NV WP	11800	17500
TESSA, NV WP	RUBII, NV WP	11300	17500
RUBII, NV WP	*WELLS, NV VOR/DME	13500	17500
*12400—MCA WELLS, NV VOR/DME, SW BND			
WELLS, NV VOR/DME	YIKUK, NV FIX	11100	17500
YIKUK, NV FIX	BROPH, ID WP	10000	17500

§ 95.3634 RNAV Route T634 Is Amended by Adding

U.S. CANADIAN BORDER	WATERTOWN, NY VORTAC	2000	17500
WATERTOWN, NY VORTAC	BRUIN, NY WP	2600	17500
BRUIN, NY WP	PAGER, NY FIX	2600	17500
PAGER, NY FIX	SYRACUSE, NY VORTAC	2300	17500
SYRACUSE, NY VORTAC	*STODA, NY FIX	2300	17500
*2900—MCA STODA, NY FIX, SE BND			
STODA, NY FIX	TEBOR, NY FIX	4200	17500
TEBOR, NY FIX	DINNO, NY FIX	4200	17500
DINNO, NY FIX	EATEN, NY FIX	4200	17500
EATEN, NY FIX	SHERB, NY FIX	4100	17500
SHERB, NY FIX	RAHKS, NY WP	4300	17500
RAHKS, NY WP	DANZI, NY FIX	4900	17500
DANZI, NY FIX	*RIMBA, NY FIX	5700	17500
*5900—MCA RIMBA, NY FIX, SE BND			
RIMBA, NY FIX	*PRNCE, NY FIX	6200	17500
*6400—MCA PRNCE, NY FIX, SE BND			
PRNCE, NY FIX	FILPS, NY FIX	6400	17500
FILPS, NY FIX	*WEETS, NY FIX	6400	17500
*5300—MCA WEETS, NY FIX, NW BND			
WEETS, NY FIX	KINGSTON, NY VOR/DME	4000	17500
KINGSTON, NY VOR/DME	CASSH, NY FIX	3600	17500
CASSH, NY FIX	NOBBI, NY FIX	3600	17500
NOBBI, NY FIX	CARMEL, NY VOR/DME	2700	17500
CARMEL, NY VOR/DME	DENNA, CT FIX	2700	17500
DENNA, CT FIX	BETHA, CT FIX	2200	17500
BETHA, CT FIX	CREAM, NY FIX	1700	17500
CREAM, NY FIX	BOROS, NY FIX	1800	17500
BOROS, NY FIX	GARRD, NY FIX	1800	17500
GARRD, NY FIX	SUFOK, RI FIX	1700	17500
SUFOK, RI FIX	SANDY POINT, RI VOR/DME	1900	17500

Is Amended To Delete

SYRACUSE, NY VORTAC	PAGER, NY FIX	2300	17500
PAGER, NY FIX	BRUIN, NY WP	2600	17500
BRUIN, NY WP	WATERTOWN, NY VORTAC	2600	17500
WATERTOWN, NY VORTAC	U.S. CANADIAN BORDER	2000	17500

§ 95.3765 RNAV Route T765 Is Added To Read

HOUGHTON, MI VOR/DME	U.S. CANADIAN BORDER	*3100	17500
*2600—MOCA			
U.S. CANADIAN BORDER	INTERNATIONAL FALLS, MN VOR/DME	3000	17500
INTERNATIONAL FALLS, MN VOR/DME	U.S. CANADIAN BORDER	2900	9000
U.S. CANADIAN BORDER	U.S. CANADIAN BORDER	*11000	17500

From	To	MEA	MAA
* 2400—MOCA			
§ 95.3776 RNAV Route T776 Is Added To Read			
U.S. CANADIAN BORDER * 2400—MOCA	U.S. CANADIAN BORDER	* 15000	17500
U.S. CANADIAN BORDER * 1900—MOCA	U.S. CANADIAN BORDER	* 15000	17500
U.S. CANADIAN BORDER * 2100—MOCA	SAULT STE MARIE, MI VOR/DME	* 15000	17500
§ 95.3810 RNAV Route T810 Is Added To Read			
U.S. CANADIAN BORDER * 2600—MOCA	AVALE, MI WP	* 9000	17500
AVALE, MI WP * 2200—MOCA	SRADE, MI WP	* 3000	17500
SRADE, MI WP * 2400—MOCA	U.S. CANADIAN BORDER	* 3000	17500
U.S. CANADIAN BORDER * 2100—MOCA	SAULT STE MARIE, MI VOR/DME	* 3000	17500
§ 95.4000 High Altitude RNAV Routes			
§ 95.4143 RNAV Route Q143 Is Added To Read			
WINEN, UT WP * 18000—GNSS MEA * DME/DME/IRU MEA	LNNKA, NV WP	* 18000	45000
LNNKA, NV WP * 18000—GNSS MEA * DME/DME/IRU MEA	TESSA, NV WP	* 22000	45000
TESSA, NV WP * 18000—GNSS MEA * DME/DME/IRU MEA	RUBII, NV WP	* 22000	45000
RUBII, NV WP * 18000—GNSS MEA * DME/DME/IRU MEA	CLEIN, NV WP	* 20000	45000
CLEIN, NV WP * 18000—GNSS MEA * DME/DME/IRU MEA	BROPH, ID WP	* 20000	45000
§ 95.4221 RNAV Route Q221 Is Added To Read			
ARMEL, VA VOR/DME * 18000—GNSS MEA * DME/DME/IRU MEA	DLMAR, PA WP	* 18000	45000
§ 95.4227 RNAV Route Q227 Is Added To Read			
ARMEL, VA VOR/DME * 18000—GNSS MEA * DME/DME/IRU MEA	OGESY, PA WP	* 18000	45000
OGESY, PA WP * 18000—GNSS MEA * DME/DME/IRU MEA	STUBN, NY WP	* 18000	45000
§ 95.4834 RNAV Route Q834 Is Added To Read			
U.S. CANADIAN BORDER * GNSS REQUIRED	DULUTH, MN VORTAC	* 18000	45000
§ 95.4924 RNAV Route Q924 Is Added To Read			
DULUTH, MN VORTAC * GNSS REQUIRED	U.S. CANADIAN BORDER	* 18000	45000
From		To	
From		To	
§ 95.6001 Victor Routes—U.S			
§ 95.6007 VOR Federal Airway V7—Is Amended To Read in Part			
LEE COUNTY, FL VORTAC * 5000—MRA	*CROWD, FL FIX		2600 MAA—17500

From	To	MEA
§ 95.6013 VOR Federal Airway V13—Is Amended To Delete		
DULUTH, MN VORTAC	*WEMAN, MN WP	4000
*6000—MRA .....	.....	MAA—17500
*10000—MCA WEMAN, MN WP, NE BND	.....	.....
WEMAN, MN WP	U.S. CANADIAN BORDER	10000
.....	.....	MAA—17500
Is Amended To Read in Part		
LAMONI, IA VOR/DME	DES MOINES, IA VORTAC	3000
.....	.....	MAA—17500
§ 95.6035 VOR Federal Airway V35—Is Amended To Delete		
STONYFORK, PA VOR/DME	ELMIRA, NY VOR/DME	*4500
*3900—MOCA .....	.....	MAA—17500
ELMIRA, NY VOR/DME	SCIPO, NY FIX	3700
.....	.....	MAA—17500
SCIPO, NY FIX	SYRACUSE, NY VORTAC	3500
.....	.....	MAA—17500
§ 95.6036 VOR Federal Airway V36—Is Amended To Delete		
ELMIRA, NY VOR/DME	HAWLY, PA WP	*4500
* GNSS MEA	.....	.....
HAWLY, PA WP	HOPCE, NJ FIX	*15500
*3600—MOCA .....	.....	MAA—17500
*4000—GNSS MEA	.....	.....
HOPCE, NJ FIX	NEION, NJ FIX	*13500
*3600—MOCA .....	.....	MAA—17500
*4000—GNSS MEA	.....	.....
§ 95.6048 VOR Federal Airway V48—Is Amended To Delete		
OTTUMWA, IA VOR/DME	BURLINGTON, IA VOR/DME	2500
.....	.....	MAA—17500
§ 95.6052 VOR Federal Airway V52—Is Amended To Delete		
DES MOINES, IA VORTAC	BUSSY, IA WP	*4500
*2400—MOCA .....	.....	MAA—17500
*2700—GNSS MEA	.....	.....
*DES MOINES R—105 UNUSABLE, USE OTTUMWA R—287	.....	.....
BUSSY, IA WP	OTTUMWA, IA VOR/DME	2700
.....	.....	MAA—17500
§ 95.6060 VOR Federal Airway V60—Is Amended To Read in Part		
GALLUP, NM VORTAC	*CUBBA, NM FIX	11400
*10300—MCA CUBBA, NM FIX, W BND .....	.....	MAA—17500
§ 95.6062 VOR Federal Airway V62—Is Amended To Read in Part		
GALLUP, NM VORTAC	*CABZO, NM FIX	11400
*10500—MCA CABZO, NM FIX, W BND .....	.....	MAA—17500
ZIASE, NM FIX	SANTA FE, NM VORTAC	9500
.....	.....	MAA—17500
§ 95.6066 VOR Federal Airway V66—Is Amended To Delete		
RALEIGH/DURHAM, NC VORTAC	MEYER, NC FIX	2600
.....	.....	MAA—17500
MEYER, NC FIX	FRANKLIN, VA VORTAC	UNUSABLE
§ 95.6077 VOR Federal Airway V77—Is Amended To Read in Part		
LAMONI, IA VOR/DME	DES MOINES, IA VORTAC	3000
.....	.....	MAA—17500
DES MOINES, IA VORTAC	NEWTON, IA VOR/DME	3100
.....	.....	MAA—17500

From	To	MEA
§ 95.6079 VOR Federal Airway V79—Is Amended To Delete		
HASTINGS, NE VOR/DME	LINCOLN, NE VORTAC	4000 MAA—17500
§ 95.6133 VOR Federal Airway V133—Is Amended To Delete		
HOUGHTON, MI VOR/DME	U.S. CANADIAN BORDER	*3100 MAA—17500
*2500—MOCA	INTERNATIONAL FALLS, MN VOR/DME	*3000 MAA—17500
U.S. CANADIAN BORDER .....	.....	MAA—17500
*2500—MOCA .....	.....	
§ 95.6138—VOR Federal Airway V138—Is Amended To Read in Part		
GRAND ISLAND, NE VOR/DME	GAMBL, NE FIX	4100 MAA—17500
§ 95.6147 VOR Federal Airway V147—Is Amended To Delete		
WILKES-BARRE, PA VORTAC	ELMIRA, NY VOR/DME	4000 MAA—17500
ELMIRA, NY VOR/DME	GENESEO, NY VOR/DME	4000 MAA—17500
§ 95.6155 VOR Federal Airway V155—Is Amended To Delete		
RALEIGH/DURHAM, NC VORTAC	WIPER, NC WP	2300 MAA—17500
WIPER, NC WP	LAWRENCEVILLE, VA VORTAC	*8000 MAA—17500
*2000—MOCA .....	.....	
*2300—GNSS MEA	.....	
*LAWRENCEVILLE R—225 UNUSABLE, USE RALEIGH/DURHAM R—046		
LAWRENCEVILLE, VA VORTAC	*MANGE, VA FIX	**4000 MAA—17500
*5000—MRA .....	.....	
**2000—GNSS MEA	.....	
*LAWRENCEVILLE R 042 UNUSABLE, USE RICHMOND R—223		
MANGE, VA FIX	FLAT ROCK, VA VORTAC	*5000 MAA—17500
*1800—MOCA .....	.....	
*2000—GNSS MEA	.....	
§ 95.6157 VOR Federal Airway V157—Is Amended To Delete		
TAR RIVER VORTAC	LAWRENCEVILLE, VA VORTAC	*4500 MAA—17500
*2500—MOCA .....	.....	
*LAWRENCEVILLE R 177 UNUSABLE BELOW 6000, USE TAR RIVER R—354.		
LAWRENCEVILLE, VA VORTAC	DALTO, VA FIX	*4000 MAA—17500
*2000—GNSS MEA	.....	
*LAWRENCEVILLE R—042 UNUSABLE	.....	
DALTO, VA FIX	RICHMOND, VA VORTAC	2000 MAA—17500
§ 95.6161 VOR Federal Airway V161—Is Amended To Delete		
INTERNATIONAL FALLS, MN VOR/DME	U.S. CANADIAN BORDER	3000 MAA—17500
U.S. CANADIAN BORDER	U.S. CANADIAN BORDER	*11000 MAA—17500
*2400—MOCA .....	.....	
Is Amended To Read in Part		
LAMONI, IA VOR/DME	DES MOINES, IA VORTAC	3000 MAA—17500
§ 95.6189 VOR Federal Airway V189—Is Amended To Delete		
WRIGHT BROTHERS, NC VOR/DME	*DAREZ, NC WP	**8000 MAA—17500
*8000—MCA DAREZ, NC WP, E BND .....	.....	
**3000—GNSS MEA	.....	

From	To	MEA
DAREZ, NC WP	TAR RIVER, NC VORTAC	*6000
*3000—MOCA .....	.....	MAA—17500
*4000—GNSS MEA .....	.....	.....
TAR RIVER, NC VORTAC	FRANKLIN, VA VORTAC	2000
.....	.....	MAA—17500
FRANKLIN, VA VORTAC	HOPEWELL, VA VORTAC	3000
.....	.....	MAA—17500
§ 95.6206 VOR Federal Airway V206—Is Amended To Delete		
NAPOLEON, MO VORTAC	KIRKSVILLE, MO VORTAC	3000
.....	.....	MAA—17500
KIRKSVILLE, MO VORTAC	OTTUMWA, IA VOR/DME	3100
.....	.....	MAA—17500
§ 95.6216 VOR Federal Airway V216—Is Amended To Delete		
LAMONI, IA VOR/DME	OTTUMWA, IA VOR/DME	2900
.....	.....	MAA—17500
OTTUMWA, IA VOR/DME	IOWA CITY, IA VOR/DME	3000
.....	.....	MAA—17500
§ 95.6220 VOR Federal Airway V220—Is Amended To Delete		
KEARNEY, NE VOR	HASTINGS, NE VOR/DME	4300
.....	.....	MAA—17500
HASTINGS, NE VOR/DME	COLUMBUS, NE VOR/DME	4000
.....	.....	MAA—17500
§ 95.6258 VOR Federal Airway V258—Is Amended To Delete		
ROANOKE, VA VOR/DME	PIGGS, VA FIX	5400
.....	.....	MAA—17500
PIGGS, VA FIX	ENTUK, VA WP	*4000
.....	.....	MAA—17500
*3400—MOCA .....	.....	MAA—17500
ENTUK, VA WP	DANVILLE, VA VOR	3000
.....	.....	MAA—17500
§ 95.6263 VOR Federal Airway V263—Is Amended To Read in Part		
ALBUQUERQUE, NM VORTAC	*SANTA FE, NM VORTAC	9500
.....	.....	MAA—17500
*11600—MCA SANTA FE, NM VORTAC , E BND .....	.....	MAA—17500
SANTA FE, NM VORTAC	*FORT UNION, NM VORTAC	12700
.....	.....	MAA—17500
*10900—MCA FORT UNION, NM VORTAC , N BND .....	.....	.....
*11300—MCA FORT UNION, NM VORTAC, W BND .....	.....	MAA—17500
§ 95.6266 VOR Federal Airway V266—Is Amended To Delete		
SOUTH BOSTON, VA VORTAC	LAWRENCEVILLE, VA VORTAC	*3000
.....	.....	MAA—17500
*2000—MOCA .....	.....	MAA—17500
*2300—GNSS MEA .....	.....	.....
*LAWRENCEVILLE R 269 UNUSABLE, USE SOUTH BOS- TON R-086 .....	.....	.....
LAWRENCEVILLE, VA VORTAC	FRANKLIN, VA VORTAC	UNUSABLE
FRANKLIN, VA VORTAC	*SUNNS, NC FIX	UNUSABLE
*5000—MCA SUNNS, NC FIX, SE BND .....	.....	.....
ELIZABETH CITY, NC VOR/DME	WRIGHT BROTHERS, NC VOR/DME	4000
.....	.....	MAA—17500
§ 95.6270 VOR Federal Airway V270—Is Amended by Adding		
BINGHAMTON, NY VOR/DME	DANZI, NY FIX	*5000
.....	.....	MAA—17500
*4300—MOCA .....	.....	MAA—17500
DANZI, NY FIX	CHESTER, MA VOR/DME	6300
.....	.....	MAA—17500
Is Amended To Delete		
ELMIRA, NY VOR/DME	BINGHAMTON, NY VOR/DME	3500
.....	.....	MAA—17500

From	To	MEA
BINGHAMTON, NY VOR/DME	DELANCEY, NY VOR/DME	4500
	W BND	MAA—17500
	E BND	4800
		MAA—17500
DELANCEY, NY VOR/DME	*ACOVE, NY FIX	6300
		MAA—17500
*8000—MRA		MAA—17500
ACOVE, NY FIX	*ATHOS, NY FIX	6300
*6000—MCA ATHOS, NY FIX, W BND		MAA—17500
ATHOS, NY FIX	CHESTER, MA VOR/DME	4500
		MAA—17500

§ 95.6300 VOR Federal Airway V300—Is Amended To Delete

U.S. CANADIAN BORDER	AVALE, MI WP	*9000
		MAA—17500
*2400—MOCA		MAA—17500
AVALE, MI WP	U.S. CANADIAN BORDER	*3000
		MAA—17500
*2400—MOCA		MAA—17500
U.S. CANADIAN BORDER	SAULT STE MARIE, MI VOR/DME	*3000
		MAA—17500
*2400—MOCA		MAA—17500
U.S. CANADIAN BORDER	CAMPO, ME WP	*9000
		MAA—17500
*5900—MOCA		MAA—17500
*5900—GNSS MEA		
CAMPO, ME WP	WRAPT, ME WP	*9000
		MAA—17500
*6000—MOCA		MAA—17500
*6000—GNSS MEA		
WRAPT, ME WP	MILLINOCKET, ME VOR/DME	*7000
		MAA—17500
*5900—MOCA		MAA—17500
*5900—GNSS MEA		
MILLINOCKET, ME VOR/DME	U.S. CANADIAN BORDER	*3000
		MAA—17500
*2200—MOCA		MAA—17500

§ 95.6348 VOR Federal Airway V348—Is Amended To Delete

U.S. CANADIAN BORDER	U.S. CANADIAN BORDER	*15000
		MAA—17500
*2800—MOCA		MAA—17500
U.S. CANADIAN BORDER	U.S. CANADIAN BORDER	*15000
		MAA—17500
*2800—MOCA		MAA—17500
U.S. CANADIAN BORDER	SAULT STE MARIE, MI VOR/DME	*15000
		MAA—17500
*2800—MOCA		MAA—17500
SAULT STE MARIE, MI VOR/DME	U.S. CANADIAN BORDER	*7000
		MAA—17500
*3000—MOCA		MAA—17500

§ 95.6360 VOR Federal Airway V360—Is Amended To Delete

SAULT STE MARIE, MI VOR/DME	U.S. CANADIAN BORDER	*6000
		MAA—17500
*2600—MOCA		MAA—17500

§ 95.6380 VOR Federal Airway V380—Is Amended To Delete

GRAND ISLAND, NE VOR/DME	HASTINGS, NE VOR/DME	4000
		MAA—17500
HASTINGS, NE VOR/DME	MANKATO, KS VORTAC	3900
		MAA—17500

§ 95.6434 VOR Federal Airway V434—Is Amended To Delete

OTTUMWA, IA VOR/DME	MOLINE, IL VOR/DME	*3000
		MAA—17500
*2500—MOCA		MAA—17500

From	To	MEA	
§ 95.6454 VOR Federal Airway V454—Is Amended To Delete			
LIBERTY, NC VORTAC	NOKIY, VA FIX	*6000	
*3000—GNSS MEA		MAA—17500	
NOKIY, VA FIX	LAWRENCEVILLE, VA VORTAC	*8000	
*3000—GNSS MEA		MAA—17500	
*LAWRENCEVILLE R-242 UNUSABLE, USE LIBERTY R-056			
LAWRENCEVILLE, VA VORTAC	JUNKI, VA FIX	*6000	
		MAA—17500	
*1900—MOCA		MAA—17500	
*2000—GNSS MEA			
*LAWRENCEVILLE R-059 UNUSABLE, USE HOPEWELL R-237			
JUNKI, VA FIX	HOPEWELL, VA VORTAC	2000	
		MAA—17500	
§ 95.6469 VOR Federal Airway V469—Is Amended To Delete			
DANVILLE, VA VOR	LYNCHBURG, VA VOR/DME	3000	
		MAA—17500	
§ 95.6539 VOR Federal Airway V539—Is Amended To Read in Part			
KEY WEST, FL VORTAC	GOODY, FL FIX	*4000	
*1400—MOCA		MAA—17500	
		MAA—17500	
§ 95.6611 VOR Federal Airway V611—Is Amended To Read in Part			
SOCORRO, NM VORTAC	*ALBUQUERQUE, NM VORTAC	8000	
*8200—MCA ALBUQUERQUE, NM VORTAC, NE BND		MAA—17500	
ALBUQUERQUE, NM VORTAC	*SANTA FE, NM VORTAC	MAA—17500	
		9600	
*11600—MCA SANTA FE, NM VORTAC, E BND		MAA—17500	
SANTA FE, NM VORTAC	*FORT UNION, NM VORTAC	MAA—17500	
*10900—MCA FORT UNION, NM VORTAC, N BND		12700	
*11300—MCA FORT UNION, NM VORTAC, W BND		MAA—17500	
§ 95.6428 Alaska VOR Federal Airway V428—Is Amended To Delete			
SISTERS ISLAND, AK VORTAC	HAINES, AK NDB	*10000	
*8500—MOCA		MAA—17500	
*8500—GNSS MEA		MAA—17500	
*MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE			
HAINES, AK NDB	U.S. CANADIAN BORDER	*10000	
*9600—MOCA		MAA—17500	
		MAA—17500	
§ 95.6508 Alaska VOR Federal Airway V508—Is Amended To Delete			
SPARREVOHN, AK VOR/DME	ANIAC, AK NDB	6000	
		MAA—17500	
From	To	MEA	MAA
§ 95.7001 Jet Routes			
§ 95.7089 Jet Route J89—Is Amended To Delete			
DULUTH, MN VORTAC	U.S. CANADIAN BORDER	18000	45000
		MAA—17500	MAA—17500
§ 95.7132 Jet Route J132—Is Amended To Delete			
ELMIRA, NY VOR/DME	HUGUENOT, NY VOR/DME	18000	45000
		MAA—17500	MAA—17500

From	To	MEA	MAA
§ 95.7223 Jet Route J223—Is Amended To Delete			
LA GUARDIA, NY VOR/DME	CORDS, PA WP	18000 MAA— 17500	25000 MAA—17500
§ 95.7227 Jet Route J227—Is Amended To Delete			
ARMEL, VA VOR/DME	ELMIRA, NY VOR/DME	*18000 MAA— 17500	23000 MAA—17500
*ARMEL R—009 UNUSABLE BYD 74 NM *ELMIRA R—205 UNUSABLE BYD 73 NM			
§ 95.7533 Jet Route J533—Is Amended To Delete			
DULUTH, MN VORTAC	U.S. CANADIAN BORDER	18000 MAA— 17500	45000 MAA—17500
Airway Segment		Changeover Points	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Point			
V161 Is Amended To Delete Changeover Point			
INTERNATIONAL FALLS, MN VOR/DME	WINNIPEG, CA VORTAC	77	INTERNATIONAL FALLS
V189 Is Amended To Delete Changeover Point			
WRIGHT BROTHERS, NC VOR/DME	TAR RIVER, NC VORTAC	25	WRIGHT BROTHERS
V300 Is Amended To Delete Changeover Point			
SAULT STE MARIE, MI VOR/DME	THUNDER BAY, CA VOR/DME	94	SAULT STE MARIE
V454 Is Amended To Delete Changeover Point			
LIBERTY, NC VORTAC	LAWRENCEVILLE, VA VORTAC	82	LIBERTY
ALASKA V428 Is Amended To Delete Changeover Point			
SISTERS ISLAND, AK VORTAC	HAINES, AK NDB	21	SISTERS ISLAND
HAINES, AK NDB	WHITEHORSE, AK VOR/DME	30	HAINES
ALASKA V508 Is Amended To Delete Changeover Point			
SPARREVOHN, AK VOR/DME	ANIAK, AK NDB	68	SPARREVOHN

[FR Doc. 2024–17928 Filed 8–12–24; 8:45 am]

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**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT****24 CFR Parts 982 and 983**

[Docket No. FR–6476–N–01]

**Section 8 Housing Choice Vouchers:
Revised Implementation of the HUD-
Veterans Affairs Supportive Housing
Program**

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: This notice sets forth the policies and procedures for the administration of tenant-based and project-based Section 8 Housing Choice Voucher (HCV) rental assistance under the Department of Housing and Urban Development-Veterans Affairs Supportive Housing (HUD-VASH) program administered by local public housing agencies (PHAs) that have partnered with local Veterans Affairs (VA) medical facilities or other entities as designated by the Secretary of the VA. This notice includes new waivers and program flexibilities as well as additional general guidance. This notice also incorporates updated policy based

on further implementation of the Housing Opportunity Through Modernization Act of 2016 (HOTMA).

DATES: *Applicability date:* August 13, 2024.

FOR FURTHER INFORMATION CONTACT:

Ryan Jones, Director, Housing Voucher Management and Operations Division, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4216, Washington, DC 20410, telephone number (202) 708–0477. (This is not a toll-free number.) HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to

make an accessible telephone call, please visit: <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

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I. Background

A. Reasons for Changes and Process of Development

Through the HUD–VASH program, HUD and VA increase access to affordable housing for homeless veterans and provide the support necessary to obtain and maintain permanent housing in the community. Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans authorized by section 8(o)(19) of the United States Housing Act of 1937, 42 U.S.C. 1437f(o)(19). The HUD–VASH program combines HUD HCV rental assistance for homeless veterans administered by PHAs with case management and supportive services provided through VA. VA may provide these services directly through VA medical facilities or through a DSP approved by the VA Secretary. PHAs may be approved to act as DSPs but only in a limited capacity to do initial intake and provide temporary case management of HUD–VASH veterans until they are referred to the VA medical facility or DSP that will provide ongoing services. For simplicity, this document will generally refer to the combination of VA and DSPs as “VA”.

Based on a review of existing permanent supportive housing (PSH) models, typical acuity levels of veterans in the program, and the availability of providers within VA medical facilities and in the community who can augment care provided by HUD–VASH case

managers, the Secretaries of HUD and VA jointly determined that the appropriate caseload ratio in HUD–VASH is a weighted average of 25 veterans per case manager. It is important to note that actual caseload sizes can vary considerably, based primarily on the needs of the veterans being served. Veterans in HUD–VASH are weighted based on their stage in the program, with higher weightings applied to veterans in more intensive stages of the program, and lower weightings applied to those who have stabilized. These weightings and target caseload ratio ensure that all veterans in receipt of a HUD–VASH voucher are seen as needed by their case manager.

The current HUD–VASH program was further authorized pursuant to Division K, Title II of The Consolidated Appropriations Act, 2008 (Pub. L. 110–161) (“2008 Appropriation Act”) enacted on December 26, 2007 (see proviso (7) under the heading “Tenant-Based Rental Assistance”). All Congressional Appropriations Acts since 2008 have continued to authorize this program. Therefore, the implementation requirements will remain in effect until the HUD–VASH program is no longer authorized by Congress or the authorization requirements change.

The Appropriations Acts have required HUD to “make such funding available, notwithstanding section 203 (competition provision) of this title, to PHAs that partner with eligible VA Medical Centers or other entities as designated by the Secretary of the VA, based on geographical need for such assistance as identified by the Secretary of the VA, PHA administrative performance, and other factors as specified by the Secretary of HUD in consultation with the Secretary of the Department of the VA.”

Based on this language, the allocation of HUD–VASH vouchers has been a collaborative, data-driven effort conducted by HUD and the VA. The HUD–VASH allocation formula relies on several pieces of data which include HUD’s point-in-time data submitted by Continuums of Care (CoC) and VA data on contacts with homeless veterans. PHA and VA performance is also taken into consideration.

Additional information on program requirements and procedures may be found on the HUD–VASH website at https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/vash.

B. Summary of Changes

The new flexibilities and requirements include: (1) new flexibility

around verifying social security number (SSN) based on HOTMA updates (section II.a.); (2) new requirement for PHAs to serve veterans up to the low income limit (*i.e.*, 80% area median income (AMI)) in the HUD–VASH program (section II.b.); (3) new requirement to exclude VA disability income to determine initial eligibility (section II.b.); (4) new requirement for PHAs to accept self-certification of assets under \$50,000 as established in HOTMA and allow self-certification of zero-income (section II.b.); (5) new authorization for PHAs to apply reasonable accommodation exception payment standards for HUD–VASH families without additional HUD approval (section II.o.); (6) new flexibility to allow noncompetitive selection of one or more PBV projects where all units in the project(s) are made exclusively available to HUD–VASH families on the site of a VA facility (section II.k.); new flexibility allowing admittance of zero-HAP families for HUD–VASH PBV (section II.k.); and (7) new flexibility to allow PHAs to set a lower minimum rent (including a minimum rent of \$0) specifically for their HUD–VASH program (section II.q.).

Updates made to existing requirements include: (1) updates to description and requirements for designated service providers (DSPs) and PHAs as DSPs (section II.a.); (2) clarification on applicability of initial search term (section II.c.); (3) explanation that HUD–VASH families are not be subject to rescreeing when porting (section II.f.); (4) additional explanation regarding the application of HUD–VASH waivers and flexibilities to HUD–VASH PBV (section II.k.); (5) additional explanation of HUD–VASH PBV exceptions under HOTMA (section II.k.); (6) explanation that when a HUD–VASH family is eligible to move or required to move from its PBV unit, the family must be able to move with a HUD–VASH tenant-based voucher (section II.k.); (7) updated explanation of the HUD–VASH reallocation process through voluntary moves between PHAs and voucher recapture for future reallocation (section II.m.); and (8) update to allow pre-inspection of units up to 90 days before the Request for Tenancy Approval (section II.n.).

II. Special Rules for the HUD–VASH Voucher Program

This section sets forth the design features of the HUD–VASH program, including family eligibility and selection, income eligibility, portability, case management, and the turnover of these vouchers. This document replaces

the special rules published in the **Federal Register** on September 27, 2021 (86 FR 53207). The FY 2008–2024 Appropriations Acts stated “that the Secretary of HUD (in consultation with the Secretary of the VA) may waive, or specify alternative requirements for any provision of any statute or regulation that the Secretary of HUD administers in connection with the use of funds made available under this paragraph (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) upon a finding by the Secretary that any such waivers or alternative requirements are necessary for the effective delivery and administration of such voucher assistance: *Provided further*, that assistance made available under this paragraph shall continue to remain available for homeless veterans upon turnover.”

This notice outlines below the waivers or alternative requirements determined by the Secretary to be necessary for the effective delivery and administration of the HUD–VASH program. These waivers or alternative requirements are exceptions to the normal HCV requirements, which otherwise govern the provision of HUD–VASH assistance. In addition, a PHA may request additional good cause regulatory waivers. These requests may be submitted to the Secretary for review and decision through the Assistant Secretary for Public and Indian Housing (PIH) through the regular PIH waiver process.

HUD–VASH vouchers under this part are administered in accordance with the tenant-based HCV and PBV program regulations set forth at 24 Code of Federal Regulations (CFR) parts 982 and 983, respectively. In both programs, the PHA pays monthly rental subsidies so that eligible families can afford decent, safe, and sanitary housing. HUD provides housing assistance funds to the PHA, as well as funds for PHA administration of the program.

Under the HCV program, families select and rent units that meet program housing quality standards (HQS). If the PHA approves a family’s unit and tenancy, the PHA contracts with the property owner to make rent subsidy payments (housing assistance payments) directly to the owner on behalf of the family on a monthly basis. The family enters into a lease with the owner and pays its share of the rent to the owner in accordance with the lease. Under the HCV tenant-based voucher program, the housing assistance payments (HAP) contract between the PHA and the owner covers only a single unit and a specific assisted family. If the family

moves out of the leased unit, the HAP contract with the owner terminates. The family may generally move to another unit with continued assistance so long as the family is complying with program requirements.

Under the PBV program, families occupy units under a PBV HAP contract. Generally, there are multiple units under the PBV HAP contract. In many cases supportive services are provided on-site. All of the PBV requirements in 24 CFR part 983 apply except where waived as described below.

Unless expressly noted below, all regulatory requirements and HUD directives regarding the HCV tenant-based voucher and PBV programs are applicable to HUD–VASH vouchers, including the use of all HUD-required contracts and other forms. The PHA’s local discretionary policies adopted in the PHA’s written administrative plan apply to HUD–VASH vouchers unless such local policy conflicts with the requirements of the HUD–VASH vouchers outlined below, in which case the requirements in this document supersede the administrative plan.

PHAs are required to maintain records that allow for the easy identification of families receiving HUD–VASH vouchers. PHAs must identify these families in the Information Management System/PIH Information Center (IMS/PIC), or any successor system. This record-keeping will help ensure that, in accordance with appropriations renewal language, HUD–VASH vouchers that are in use will remain available for homeless veterans upon turnover.

The alternative requirements established in this Notice apply to all PHAs that administer HUD–VASH vouchers, including those that have not received an allocation of HUD–VASH vouchers, but administer these vouchers as a receiving PHA under the portability feature of the HCV program.

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410–0500. The FONSI is also available through the Federal eRulemaking Portal at <http://www.regulations.gov>.

A. Family Eligibility, Selection, and Documentation

HUD–VASH eligible families are homeless veterans and their families. The Appropriations Acts have provided for statutory or regulatory waivers or alternative requirements upon a finding by the Secretary that such waivers or alternatives are necessary for the effective administration and delivery of voucher assistance (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment). The December 17, 2007, Explanatory Statement for the 2008 Appropriation Act provides, “The Appropriations Committees expect that these vouchers will be made available to all homeless veterans, including recently returning veterans.” (153 Cong. Rec. H16514 (daily ed., Dec. 17, 2007)).¹ Section 8(o)(19) of the United States Housing Act of 1937 (USHA of 1937), which requires homeless veterans to have chronic mental illnesses or chronic substance use disorders with required treatment of these disorders as a condition of receipt of HUD–VASH assistance, is waived.

By agreeing to administer the HUD–VASH program, the PHA is relinquishing its authority to determine the eligibility of families in accordance with regular HCV program rules and PHA policies with the exceptions of income eligibility and lifetime sex offender status. Specifically, under the HUD–VASH program, PHAs will not have the authority to screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 (broad denial for violations of HCV program requirements) and 982.553 (specific denial for criminal activity and alcohol abusers), with one exception. PHAs will still be required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. However, unless the family member that is subject to lifetime registration under a State sex offender registration program is the homeless veteran (which would result in denial of admission for the family), the remaining family member(s) may be served if the family agrees to remove the sex offender from its family composition. Accordingly, HUD is exercising its authority to waive 42 U.S.C. 1437d(s), 42 U.S.C. 13661(a), (b), and (c), and 24 CFR 982.552 and 982.553 both in regard to denial of admission, with the exception of 982.553(a)(2)(i), which

¹ <https://www.congress.gov/crec/2007/12/17/CREC-2007-12-17-pt3-PgH16381.pdf>.

requires denial of admission to certain registered sex offenders, and with the exceptions of 982.552(c)(2)(v) and 982.553(e), which contain the fair housing and equal opportunity provisions and protections for victims of domestic violence, dating violence, sexual assault, and stalking. These provisions also apply to PBV assistance.

Eligibility determination and veteran selection is done by the VA, as described later in this section. HUD-VASH eligible families are referred to the partnering PHA for the issuance of a voucher or selection for a PBV unit. As stated above, the PHA must accept these referrals. Written documentation of these referrals must be maintained in the tenant file at the PHA.

PHAs are not authorized to maintain a waiting list or apply local preferences for the HUD-VASH program. Instead, VA refers HUD-VASH eligible families to the PHA for the issuance of a HUD-VASH voucher or identification of a PBV unit that is exclusively made available to HUD-VASH families. If a HUD-VASH-eligible family is referred and there is an available PBV unit that is not exclusively made available to HUD-VASH families, the PHA may also offer to refer the family to the owner for occupancy of that unit if allowable under the selection policy applicable to that project, and the owner and PHA may amend the PBV HAP contract to designate the PBV unit as a HUD-VASH PBV unit. Accordingly, sections 8(o)(6)(A) and (B) and 8(o)(13)(j) of the USHA of 1937, 42 U.S.C. 1437f(o)(6)(A) and (B) and (o)(13)(j), in regard to preferences, has been waived to provide for the effective administration of the program. In addition, provisions relating to applicant selection from the waiting list and local preferences of 24 CFR 982.202, 982.204, 982.207, and 983.251 are also waived. Note that 24 CFR 983.251(a)(4), which disallows renting to relatives except when it may be necessary as a reasonable accommodation, is not waived. Note that 24 CFR 982.202(b)(3) (Family characteristics), 24 CFR 982.202(d) (Admission policy), and 24 CFR 983.251(a)(3) (protections for survivors of domestic violence, dating violence, sexual assault, or stalking covered by part 5, subpart L apply to admission to the PBV program) continue to apply. 24 CFR 982.203, 982.205, and 982.206 regarding special admissions, cross-listing of the waiting list, and opening and closing the waiting list do not apply to the HUD-VASH program.

The VA may approve a PHA with unleased HUD-VASH vouchers as a DSP for the purposes of veteran selection and intake. This PHA-specific

DSP authority allows a PHA to issue a HUD-VASH voucher to a veteran without a referral from the VA. The PHA is responsible for determining, through processes agreed upon with the partnering VA medical facility, that the veteran meets the VA program participant requirements established by the VA national office. The determination of whether an individual qualifies as a veteran for the purposes of a HUD-VASH voucher is made by the VA medical facility. The PHA must refer the veteran to the VA for case management and must provide temporary case management (not to exceed 180 days) until the VA has completed intake of the veteran. At present, PHAs may not use HCV administrative fees for case management. Further guidance will be provided on the provision of case management by the PHA as the DSP.

PHAs approved as DSPs under this authority must also ensure that while using unleased HUD-VASH vouchers, they maintain sufficient HUD-VASH vouchers available to immediately issue a HUD-VASH voucher to veterans referred by the VA. Guidance on the requirements for a PHA to be approved and additional details on the application process are available on VA's HUD-VASH website at <https://www.va.gov/HOMELESS/HUD-VASH-Designated-Service-Providers.asp> and may be periodically updated.

In regard to verifying SSN for homeless veterans and their family members, PHAs must follow the SSN verification hierarchy. PHAs must use available flexibilities in accordance with 24 CFR 5.216(g)(1)(iii) to accept self-certification of SSN and at least one third-party document, such as a bank statement, utility or cell phone bill, or benefit letter that contains the name of the individual in the absence of other documentation. For the homeless veteran, the third-party document could be the VA-issued photo ID or document with the veteran's name. If verifying an individual's SSN using this method, the PHA must document why the other SSN documentation was not available. In the case of the homeless veteran, the PHA must accept the *Certificate of Release or Discharge from Active Duty* (DD 214) or the VA-verified *Application for Health Benefits* (10-10EZ) as verification of SSN if these forms are available; however, these forms are not required to verify SSN. These documents must also be accepted for proof of age purposes. Please note that veterans are also issued photo identification cards by the VA and these cards must be accepted by the PHA in lieu of another type of government-issued photo identification.

When adding a family member after the HUD-VASH family is admitted to the program, the rules of 24 CFR 982.551(h)(2) apply. Other than the birth, adoption or court-awarded custody of a child, the PHA must approve additional family members and may apply its regular screening criteria in doing so.

Civil rights requirements cannot be waived. The HUD-VASH program is administered in accordance with applicable civil rights and fair housing requirements. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Age Discrimination Act, the Americans with Disabilities Act, and HUD's Equal Access Rule.²

When HUD-VASH applicants or recipients include veterans with disabilities or family members with disabilities, HUD's reasonable accommodation requirements apply. These standards require PHAs to make a reasonable adjustment to rules, policies, practices, and procedures when it may be necessary in order to enable an applicant or resident with a disability to have an equal opportunity to use and enjoy a dwelling, the common areas of a dwelling, or participate in or access a recipient's programs and activities. These standards extend to various aspects of program implementation, including, for example, denial or termination of assistance, initial search term of the HCV, initial lease term, and informal reviews and hearings. Under the PBV program, this also includes providing structural changes to a unit or public or common use area when they may be needed as a reasonable accommodation for an applicant or participant or their household members with a disability. Other obligations include, for example, effective communication with persons with disabilities, physical accessibility requirements, and overall nondiscrimination in the administration of the program.

B. Income and Asset Eligibility

The PHA must determine income and asset eligibility for HUD-VASH families in accordance with 24 CFR 982.201 and 24 CFR 5.618. Income targeting requirements of section 16(b) of the USHA of 1937, as well as 24 CFR 982.201(b)(2), do not apply for HUD-VASH families so that participating

² See 24 CFR 5.105(a); See also https://www.hud.gov/program_offices/fair_housing_equal_op/fair_housing_rights_and_obligations.

PHAs can effectively serve the eligible population specified in the Appropriations Acts; that is, homeless veterans, who may be at a variety of income levels, including low-income. In addition, PHAs must serve all income eligible veterans, including low-income veterans (up to 80% AMI) in HUD-VASH. HUD is exercising its authority to waive 24 CFR 982.201(b)(iii) to provide that, for HUD-VASH, low-income families are eligible for assistance and PHAs may not condition this eligibility based on “additional eligibility criteria” specified in its administrative plan.

Under Section 3(b) of the USHA of 1937, the definition of income specifically excludes “deferred disability benefits from the Department of Veterans Affairs that are received in a lump sum amount or in prospective monthly amounts” and “any expenses related to aid and attendance under section 1521 of title 38, United States Code, to veterans who are in need of regular aid and attendance.” All other VA service-connected benefits are included in determining income eligibility for the HCV program. For a very small percentage of homeless veterans, the amount of VA service-connected benefits received due to the severity of their disabilities results in the veteran being over the low-income limit.

In order to ensure that homeless veterans are not excluded from participation in the HUD-VASH program because of their VA service-connected disability benefits, particularly with respect to the opportunity to reside in HUD-VASH PBV projects located on the site of a VA facility or where HUD-VASH supportive services are provided on-site at the project, HUD is exercising its waiver authority and establishing alternative requirements for purposes of determining income eligibility for HUD-VASH. For HUD-VASH applicants receiving VA service-connected disability benefits, HUD is waiving section 3(b) of the USHA of 1937, which applies for purposes of determinations of lower income family eligibility based on median income under the USHA of 1937, including Section 8 programs, as well as 24 CFR 5.609(a)(1), which provides that annual income includes all amounts not specifically excluded in paragraph (b) of § 5.609.

As an alternative requirement, the PHA must determine the applicant's annual income for purposes of income eligibility by excluding all VA service-connected benefits received by the HUD-VASH applicant in addition to the income exclusions listed under 24 CFR

5.609(b). This special income exclusion only applies to the definition of annual income for purposes of determining income eligibility. If the HUD-VASH applicant now qualifies as a low-income family under this alternative requirement, the VA service-connected benefits (with the exception of the normally excluded deferred VA disability payments under 24 CFR 5.609(b)(16) and the payments related to aid and attendance under 24 CFR 5.609(b)(17)) must still be included as annual income when calculating the family's adjusted income under 24 CFR 5.611. In other words, the VA service-connected disability benefits are excluded for purposes of determining income eligibility but included for purposes of calculating the total tenant payment (TTP), housing assistance payment, and family share.

Because there needs to be a monthly housing assistance payment (HAP) in order to enter into a HAP contract on behalf of a tenant-based voucher family, the utilization of tenant-based HUD-VASH assistance by families determined income eligible under this waiver and alternative requirement will be limited to those areas where the family's (TTP) (see 24 CFR 5.628) is less than the applicable payment standard or exception payment standard (including any HUD-VASH specific exception payment standard established by the PHA in accordance with section II.o below). The family would also need to select a unit with a gross rent that is above the family TTP in order to lease a unit with the tenant-based HUD-VASH voucher.

Under the PBV program, the PHA may select an occupied unit to be included under a PBV HAP Contract only if the unit's occupants are eligible for assistance under 24 CFR 982.201 and the TTP for the family must be less than the gross rent for the unit, such that the unit will be eligible for a monthly HAP (24 CFR 983.52(c)). In addition, in selecting a family for an available PBV unit, the PHA must determine the TTP for the family is less than the gross rent, meaning that the unit will be eligible for a monthly HAP (24 CFR 983.251(a)(2)). However, under section II.k below, HUD is providing a waiver and alternative requirement where the PHA may opt to select an occupied unit or admit a family to a unit if such unit is made exclusively available to HUD-VASH families if the PBV project is either on the grounds of a VA facility or there are HUD-VASH supportive services provided on-site at the project. Please see section II.k regarding this PBV zero-HAP option for PHAs.

The PHA may choose to include the admission of extremely low-income HUD-VASH families in its income targeting numbers for the fiscal year in which these families are admitted. In conformance with normal program rules, PHAs may not deny admission to a family with zero income. When the veteran family reports that they have zero income, the PHA must accept a self-certification of zero income from the family at admission and at reexamination without taking any additional steps to require that the family verify zero reported income. The self-certification does not need to be notarized. The PHA must verify families' income in the Enterprise Income Verification (EIV) System within 120 days after admission.

In determining compliance with the asset limitation at 24 CFR 5.618 at admission, for the HUD-VASH program, PHAs must accept a self-certification by the family that the family's total assets are equal to or less than \$50,000, adjusted annually for inflation, and that the family does not have any present ownership interest in real property, without taking additional steps to verify the accuracy of the declaration. The PHA may accept a self-certification of net family assets at reexamination but must fully verify the family's assets every three years. For net family assets exceeding \$50,000, adjusted annually for inflation, the PHA must fully verify the family's assets as required for all HCV families.

PHAs must not enforce the asset limitation for HUD-VASH families at reexamination.

C. Initial Search Term of the Voucher

Recognizing the challenges that HUD-VASH participants may face with their housing search, HUD-VASH vouchers must have an initial search term of at least 120 days. This applies to the search term at both initial issuance and moves with assistance. Therefore, 24 CFR 982.303(a), which states that the initial search term must be at least 60 days, shall not apply, since the initial term must be at least 120 days. Any extensions, suspensions, and progress reports will remain under the policies in the PHA's administrative plan but will apply after the minimum 120-day initial search term. PHAs are encouraged to use flexibility allowing for needed extensions of search terms. Extensions may also be needed as a reasonable accommodation for a household with a member with a disability, such as for example, due to the difficulty in finding a unit that meets one's disability-related needs, e.g., physically accessible unit,

unit near accessible transportation, unit near medical or other facilities.

D. Initial Lease Term

Under the HCV tenant-based voucher program, voucher participants must enter into an initial lease with the owner for at least one year, unless a shorter term would improve housing opportunities for the tenant and the shorter term is a prevailing market practice. To provide a greater range of housing opportunities for HUD-VASH voucher holders, initial leases may be less than 12 months; therefore, both section 8(o)(7)(A) of the USHA of 1937, 42 U.S.C. 1437f(o)(7)(A), and 24 CFR 982.309(a)(2)(ii) are waived to allow a term less than one year, without regard to the PHA independently determining that a shorter term would improve housing opportunities and that a shorter term is the prevailing market practice. Note that this waiver does not apply to PBVs.

E. Eligible Housing

24 CFR 982.352(a)(5) and 982.352(a)(2) prohibit assistance for units on the physical grounds of a medical, mental, or similar public or private institution. HUD is waiving these prohibitions for the limited purpose of allowing assistance on the grounds of a VA facility for both HCV tenant-based vouchers for HUD-VASH families and all PBV units made exclusively available for HUD-VASH families.

F. Mobility and Portability of HUD-VASH Vouchers

An eligible family issued a HUD-VASH voucher must receive required case management services provided by the partnering VA medical facility. Therefore, special mobility and portability procedures must be established. HUD-VASH participant families may reside only in those jurisdictional areas that are accessible to case management services as determined by the VA medical facility.

Since the VA will be identifying homeless veterans eligible to participate in the HUD-VASH program, section 8(r)(1)(B)(i) of the USHA of 1937, 42 U.S.C. 1437f(r)(1)(B)(i), which restricts portability in cases where the family did not reside in the jurisdiction of the PHA at the time of application for HCV assistance, and 24 CFR 982.353(a), (b), and (c), which affects where a family can lease a unit with HCV assistance, do not apply. A family that moves under the portability procedures must not be subject to rescreeing by the receiving PHA. HUD may publish PIH notices from time to time to further explain portability requirements under the

HUD-VASH program. In all porting scenarios, with the exception of victims of domestic violence, dating violence, sexual assault, and stalking, the PHA must consult with the VA prior to approving the port.

1. Portability Moves Within Same Catchment Area (or Area of Operation) Where Case Management Is Provided by the Initial PHA's Partnering VA Medical Facility

If the family initially leases up, or moves, under portability provisions, but the initial PHA's partnering VA medical facility will still be able to provide the necessary case management services due to the family's proximity to the partnering VA medical facility, the receiving PHA must process the move in accordance with the portability procedures of 24 CFR 982.355. However, since the initial PHA must maintain records on all HUD-VASH families receiving case management services from its partnering VA medical facility, receiving PHAs without a HUD-VASH program must bill the initial PHA. Therefore, 24 CFR 982.355(d), which gives the receiving PHA the option to absorb the family into its own HCV program or bill the initial PHA, is not applicable.

2. Portability Moves Within Same Catchment Area Where Both PHAs Have Received HUD-VASH Vouchers

The receiving PHA may bill the initial PHA or absorb the family into its own HUD-VASH program if the VA medical facility providing the initial case management agrees to the absorption by the receiving PHA and the transfer of case management. The absorption will also entail the availability of a HUD-VASH voucher and case management provision by the receiving PHA's partnering VA medical facility.

3. Portability Moves Where Receiving PHA Is Beyond VA Medical Facility Catchment Area

If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VA medical facility to provide case management services, the VA must first determine that the HUD-VASH family could be served by another VA medical facility that is participating in this program, and the receiving PHA must have a HUD-VASH voucher available for this family. In these cases, the family must be absorbed by the receiving PHA either as a new admission (upon initial participation in the HUD-VASH program) or as a portability move-in (after an initial leasing in the initial PHA's jurisdiction). Upon absorption,

the initial PHA's HUD-VASH voucher will be available to lease to a new HUD-VASH eligible family, as determined by the partnering VA medical facility, and the absorbed family will count toward the number of HUD-VASH slots awarded to the receiving PHA.

When the receiving PHA completes the *Family Report* (HUD-50058 or HUD-50058 MTW) under the scenario described above, the action type that must be recorded on line 2a is "1" for a new admission (a family that is new to the HCV program) or "4" for a portability move-in (a family that was previously leased up in the jurisdiction of the initial PHA). Whether the family is a new admission or portability move-in, in section 12 of the HUD-50058, line 12d is always marked "Y." In cases of portability where families move out of the catchment area of the initial PHA, 12e must be 0 since the family must be absorbed, and 12f must be left blank.

4. Portability Moves Where Receiving PHA Is Beyond Catchment Area for Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking

Veterans who request to port beyond the catchment area of the VA medical facility where they are receiving case management in order to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believes themselves to be threatened with imminent harm from further violence by remaining in the dwelling unit (or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's move or request to move), may port prior to receiving approval from the receiving VA medical facility but must notify the VA medical facility at the earliest time possible to ensure appropriate supports are provided to the veteran family. The initial PHA must follow its emergency transfer plan as described in 24 CFR 5.2005(e). Consistent with documentation requirements at 24 CFR 5.2005(e)(10) and 5.200, PHAs may require verbal self-certification or a written request from a participant seeking a move beyond the catchment area of the VA medical facility. A participant may provide a completed form HUD-5383 to satisfy a requirement to provide a written request.

The verbal self-certification or written request must include either (a) a statement expressing that the participant reasonably believes that there is a threat of imminent harm from further violence if the participant were to remain in the same dwelling unit

assisted under the PHA; or (b) in the case of a participant who is a victim of sexual assault and is seeking a transfer on the basis that the sexual assault occurred on the premises during the 90-day period preceding the participant's request for the move, a statement that says this. The veteran escaping violence must be admitted to the VA medical facility caseload. For participants seeking a move beyond the catchment area of the VA medical facility while maintaining a HUD-VASH voucher, the participant must still port to a PHA that has a HUD-VASH program; if the receiving PHA does not have a HUD-VASH voucher available to lease, they may bill the initial PHA until a HUD-VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

5. Portability Moves When Case Management Is No Longer Required

If the family no longer requires case management, as determined by the VA medical facility, there are no portability restrictions. PHAs must follow the regulatory requirements for portability found at 24 CFR 982.355. When completing the HUD-50058, the family will continue to be coded as "VASH" on line 2n unless the family has been moved to a regular voucher, in which case the code in 2n would be left blank.

G. Case Management and Supportive Services

In general, the VA medical facility responsibilities include: (1) the screening of homeless veterans to determine whether they meet the HUD-VASH program participation criteria established by the VA national office; (2) assisting veterans with the PHA application and assisting the veteran family with obtaining needed PHA documentation to ensure rapid voucher issuance; (3) referrals of homeless veterans to the PHA; (4) providing case management and supportive services to potential HUD-VASH program participants, as needed, prior to PHA issuance of rental vouchers; (5) providing housing search assistance to HUD-VASH participants with rental vouchers; (6) identifying the social service and medical needs of HUD-VASH participants and providing, or ensuring the provision of, regular ongoing case management, outpatient health services, hospitalization, and other supportive services, as needed, throughout this initiative; and (7) maintaining records and providing information for evaluation purposes, as required by HUD and the VA. In cases where a DSP (including a PHA

approved as a DSP) is approved, the applicable responsibilities may be completed by the DSP.

As a condition of HCV rental assistance, both tenant-based voucher and PBV, a HUD-VASH eligible veteran must receive the case management services noted above, as needed, directly from or arranged by the VA. The VA, in consultation with the veteran, is responsible for determining if case management is required and if the case management requirement is satisfied.

If a veteran no longer requires case management, but maintains their HUD-VASH voucher assistance, the VA will maintain contact with the veteran family to provide support and planning assistance with the recertification and reinspection process. The VA will remain available to provide support to the veteran family, as needed.

H. Termination of Assistance

There are two alternative requirements for termination of assistance for HUD-VASH participants. As detailed above, HUD-VASH voucher assistance is contingent upon participation in case management, when required by the VA. If the VA has determined that a veteran is not participating in required case management, without good cause, the PHA must terminate the family from the HUD-VASH program. However, the PHA may offer the family continued assistance through one of its regular vouchers or a PBV unit not exclusively made available for HUD-VASH.

A VA determination that the veteran does not require or no longer requires case management is never grounds for termination of HCV assistance. In such case, and in consultation with the VA, the PHA may offer the family continued assistance through one of its regular vouchers, to free up the HUD-VASH voucher for another eligible family referred by the VA. The decision to transfer assistance to a regular voucher must consider veteran preference and must be communicated to the VA prior to occurring. If the PHA has no voucher to offer, the family will retain its HUD-VASH voucher, or PBV unit, until such time as the PHA has an available voucher (or PBV unit not exclusively made available for HUD-VASH) for the family. If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

Second, 24 CFR 982.552(b)(2) states that "The PHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease." HUD is

waiving this provision, and establishing the alternative requirement that the PHA may terminate program assistance in these cases. Prior to terminating HUD-VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) and consider all relevant circumstances of the specific case, as well as including the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination, prior to determining whether to terminate assistance. PHAs also must grant reasonable accommodations for persons with disabilities in accordance with 24 CFR part 8. The PHA may not terminate assistance on the basis or as a direct result that a member of the participant family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. 24 CFR 5.2005(b). In addition, a HUD-VASH participant family must not be terminated after admission, for a circumstance or activity that occurred before admission and was known to the PHA but could not be considered at the time of admission due to the HUD-VASH Operating Requirements. The PHA can only terminate the family's assistance for program violations that occur after the family's admission to the voucher program.

Generally, in the case of a family break-up, the HUD-VASH assistance must stay with the HUD-VASH veteran. However, in the case of domestic violence, dating violence, sexual assault, or stalking, in which the HUD-VASH veteran is the perpetrator, the victim must continue to be assisted. Upon termination of the perpetrator's HUD-VASH voucher due to the perpetrator's acts of domestic violence, dating violence, sexual assault, or stalking, the victim must be given a regular HCV if one is available, and the perpetrator's HUD-VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available for the victim, the perpetrator must be terminated from assistance, and the victim will continue to utilize the HUD-VASH voucher.

I. Turnover of HUD-VASH Vouchers

In accordance with the Appropriations Acts, upon turnover, HUD-VASH vouchers must be issued to eligible veteran families as identified by the VA, as noted above.

J. MTW Agencies

HUD-VASH vouchers may be administered in accordance with flexibilities approved under a PHA's

Standard MTW Agreement or MTW Operations Notice with approval from HUD's HCV office. Until such time that additional guidance is issued, MTW PHAs must submit a request through their local field office to operate HUD-VASH in accordance with approved MTW flexibilities. Requests will be approved provided the flexibilities do not conflict with the HUD-VASH program requirements or objectives. HUD-VASH vouchers are never eligible for MTW fungibility. However, MTW agencies may use their MTW funding for HUD-VASH vouchers. HUD-VASH vouchers must be reported in the IMS/PIC system, or any successor system, on either the regular HUD-50058 or HUD-50058 MTW (or HUD-50058-MTW Expansion where appropriate) for vouchers under the agency's MTW Agreement.

K. HUD-VASH PBV

Section 8(o)(13)(D) of the USHA of 1937 (42 U.S.C. 1437(o)(13)(D)) is waived for HUD-VASH vouchers so that all units exclusively made available to HUD-VASH families in a PBV project are exempted from the PBV income-mixing requirements (project cap). The project cap refers to the number of units in a project that may receive PBV assistance and is generally the higher of 25 units or 25 percent of units in the project. Units exclusively made available to HUD-VASH families are excluded from (do not count against) this PBV project cap. Additionally, HUD-VASH supportive services only need to be provided to all HUD-VASH families in the project, not all families receiving PBV assistance in the project. If a HUD-VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit for as long as the family resides in that unit.

Likewise, HUD waives Section 8(o)(13)(B) of the USHA of 1937, 42 U.S.C. 1437f(o)(13)(B) so that HUD-VASH units made available under a competitive PIH notice for HUD-VASH PBV units ("HUD-VASH PBV set-aside") are excluded from the PBV percentage limitation (program cap). This exclusion only applies to HUD-VASH PBV vouchers awarded through the HUD-VASH PBV set-aside notice. All other HUD-VASH vouchers that the PHA opts to project-base, are still subject to the PBV program cap. (Generally, a PHA may project-base up to 20% of its authorized HCV units. The PHA may also project-base an additional 10% of its authorized HCVs for units that meet the conditions of 24 CFR 983.6(d)(1) or (d)(2) and any number of units that are excluded from the

program cap pursuant to 24 CFR 983.58 and 983.59.)

Pursuant to the HUD-VASH case management and termination requirements, a HUD-VASH family's PBV assistance must be terminated for failure to participate in case management when required by the VA. If the PHA has a policy in place to allow the veteran to receive a regular (non-VASH) HCV or PBV unit instead of the family's assistance being terminated, the PHA may: substitute the family's unit on the PBV HAP contract for another unit if it is possible to do so in accordance with § 983.207(a) and this notice (the PHA may, in conjunction with such substitution, add the original unit to the PBV HAP contract with a non-VASH voucher if it is possible to do so in accordance with § 983.207(b)); remove the unit from the PBV HAP contract so the family may remain with tenant-based assistance, if the family and the owner agree to use the tenant-based voucher in the unit; or change the unit's status in the PBV HAP contract from a unit exclusively made available for HUD-VASH to a regular PBV unit, if doing so is allowable under program rules and this notice. If the PHA does not have a policy in place to allow the veteran to receive a regular (non-VASH) HCV or PBV unit instead of the family's assistance being terminated, then upon notification by the VA of the family's failure to participate in VA-required case management, the PHA must provide the family a reasonable period of time (as established by the PHA) to vacate the unit. The PHA must terminate assistance to the family at the earlier of (1) the time the family vacates or (2) the expiration of the reasonable period of time given to vacate (the lease terminates at the same time as termination of assistance per 24 CFR 983.256(f)(3)(v)). If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, the PHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. If the PHA has a policy in place to allow the veteran to be moved onto a regular HCV or PBV unit, the owner may substitute a PBV unit not exclusively made available for HUD-VASH. A PHA may add the removed unit to the HAP contract after the ineligible family vacates the property. The PBV program requirements governing additions and substitutions at 24 CFR 983.207 apply, except that paragraph (c) governing additions and substitutions of occupied units does not

apply to units exclusively made available to HUD-VASH families in most cases. Because only homeless veterans may be referred for occupancy of a HUD-VASH PBV unit, only occupied units whose occupants are families already receiving tenant-based HUD-VASH assistance may be added to a PBV HAP contract as units exclusively made available to HUD-VASH families. Families who are not homeless cannot receive HUD-VASH assistance as a result of the family's unit being added to a PBV HAP contract. Therefore, the provisions of 24 CFR 983.207(a), (b)(3), and (c) are waived with respect to the option to add or substitute an occupied unit unless the unit is already occupied by a family receiving tenant-based HUD-VASH assistance.

If a HUD-VASH family is eligible to move from its PBV unit pursuant to 24 CFR 983.261 and there is no HUD-VASH tenant-based voucher available at the time the family requests to move, the PHA may require a family that still requires case management to wait for a HUD-VASH tenant-based voucher for a period not to exceed 180 days. To effectuate this requirement, section 8(o)(13)(E)(ii) of the USHA of 1937, 42 U.S.C. 1437f(o)(13)(E)(ii), and 24 CFR 983.261(c) are waived solely for the purpose of allowing the PHA to delay issuance of a voucher. If a HUD-VASH tenant-based voucher is still not available after that period of time, the family must be allowed to move using its HUD-VASH voucher as tenant-based assistance. Alternatively, the PHA may allow the family to move using its HUD-VASH voucher as tenant-based assistance without having to meet this 180-day waiting period. In either case, the PHA may either amend the PBV HAP contract to replace the assistance in the PBV unit with one of its regular vouchers if the unit is eligible for a regular PBV (for instance, so long as the unit is eligible under the PHA's program and project caps) or the PHA and owner may agree to temporarily remove the unit from the HAP contract. If a HUD-VASH veteran has been determined to no longer require case management, the PHA must allow the family to move with the first available tenant-based voucher if no HUD-VASH voucher is immediately available and cannot require the family to wait for a HUD-VASH voucher to become available.

If the PHA determines that a HUD-VASH family is occupying a wrong-size PBV unit or a PBV unit with accessibility features that the family does not require and the PBV unit is needed by a family that requires the accessibility features, the PHA must notify the family and the owner within

30 days of the PHA's determination in accordance with 24 CFR 983.260(a)(2)(i). HUD applies an alternative requirement for HUD-VASH PBV units with respect to 24 CFR 983.260(b), however. Specifically, the PHA's offer of continued housing assistance (that must be made within 60 days of the PHA's determination) must be in the form of either a HUD-VASH tenant-based voucher or another HUD-VASH PBV unit. If no HUD-VASH assistance is available for the PHA to offer within 60 days of the PHA's determination, the PHA must remove the wrong-sized or accessible unit from the HAP contract to make HUD-VASH voucher assistance available to issue the family a tenant-based HUD-VASH voucher. 24 CFR 983.206(b), which covers the required provision of tenant-based assistance requires that the family may elect to use its tenant-based assistance to remain in the same project when a PBV HAP contract terminates or expires, does not apply to families issued a HUD-VASH tenant-based voucher under this circumstance. The PHA may use another voucher to add the unit removed under this alternative requirement to the HAP contract after the family vacates the property, in accordance with 24 CFR 983.207(b).

PHAs do not need authorization from HUD to use HUD-VASH vouchers as PBVs (though PHAs must comply with all standard PBV program requirements that are not waived in this notice in order to do so), per Section 8(o)(13)(O) of the USHA of 1937, 42 U.S.C. 1437f(o)(13)(O). However, PHAs must consult with the partnering VA medical facility to ensure approval of the project. PHAs and the partnering VA medical facility are expected to communicate regarding the PBV planning and development. PHAs may project-base HUD-VASH vouchers in projects alongside other PBV units (in accordance with all applicable PBV requirements) and may execute a single HAP contract covering both the HUD-VASH PBVs and the other PBVs. However, the contract rents may not be different based on whether the unit is a HUD-VASH PBV unit or a non-HUD-VASH PBV unit. In determining the rent to owner for the PBV project, if the cap on the amount of rent to owner under 24 CFR 983.301(b)(1) is lower for non-HUD-VASH units than it is for the HUD-VASH units (*e.g.*, the PHA has established a HUD-VASH exception payment standard under section II.o below and there is either no exception payment standard or a lower exception payment standard for the regular HCV program for the area in question), that

lower cap is applicable when setting the rent to owner for the PBV units in the project, including the HUD-VASH units. In the description of units in Exhibit A of the HAP contract, PHAs must indicate the number of units that will be exclusively made available to HUD-VASH families. The PHA must refer only HUD-VASH families to PBV units exclusively made available to HUD-VASH families and to PBV units funded through a HUD-VASH PBV set-aside award. The PHA and owner may agree to amend a PBV HAP contract to re-designate a regular PBV unit as a unit specifically designated for HUD-VASH families, so long as the PHA first consults with and obtains concurrence from the VA medical facility. Additionally, the PHA and owner may agree to amend a PBV HAP contract to re-designate a unit specifically designated for HUD-VASH families as a regular PBV unit, so long as the unit is not funded through a HUD-VASH PBV set-aside award and is eligible for a regular PBV (for instance the unit is eligible under the PHA's program and project caps). The PHA and owner may also agree to temporarily remove a unit from the HAP contract in cases where a HUD-VASH eligible veteran has been identified by the VA as appropriate for a HUD-VASH PBV unit, but the veteran is not income eligible to receive voucher assistance (even after applying the VA service-connected disability benefit exclusion waiver and alternative requirement under section II.b) or may not be selected for the PBV unit because the family's TTP exceeds the gross rent of the unit (*i.e.*, there is no HAP). Although the family would not be a program participant in the housing portion of the HUD-VASH program in such a case, the family would still benefit from the project's location on the grounds of a VA facility or from the HUD-VASH supportive services on-site at the project, while the HUD-VASH voucher would be available to assist another HUD-VASH family. The PHA and owner could agree to add a HUD-VASH voucher back onto the PBV HAP contract if the family's income subsequently decreased to the point that there would be a HAP or when the family vacates the unit.

As discussed earlier in section II.b, a PHA may select an occupied unit to be included under a PBV HAP Contract only if the unit's occupants are eligible for assistance under 24 CFR 982.201 and the TTP for the family must be less than the gross rent for the unit, such that the unit will be eligible for a monthly HAP (24 CFR 983.52(c)). Furthermore, in selecting a family for an available PBV

unit, the PHA must determine the TTP for the family is less than the gross rent, meaning that the unit will be eligible for a monthly HAP (24 CFR 983.251(a)(2)). However, if the PBV project is either on the grounds of a VA facility or there are HUD-VASH supportive services provided on-site at the project, the PHA may opt to select a unit occupied by a "zero-HAP" HUD-VASH eligible family or admit a "zero-HAP" HUD-VASH family to a unit if such unit is made exclusively available to HUD-VASH families. Until such time that the HUD-VASH family's TTP falls below the gross rent, the family is responsible for paying the entire rent to owner (the total monthly rent payable by the family and the PHA to the owner under the lease for a contract unit), in addition to being responsible for paying all tenant-supplied utilities. During any period that the family's TTP falls below the gross rent, normal PBV requirements apply. To effectuate this zero-HAP family option and the alternative requirement, Section 8(o)(2)(C) of the USHA of 1937, 24 CFR 983.52(c), 24 CFR 983.251(a)(2), and 24 CFR 983.353(b)(1) are waived.

Under normally applicable rules, units occupied by families whose incomes have increased during their tenancy resulting in the total tenant payment equaling the gross rent shall be removed from the HAP contract 180 days following the last housing assistance payment on behalf of the family (24 CFR 983.211, 24 CFR 983.258). These regulations do not apply to zero HAP families admitted to the PBV project under this waiver and alternative requirement because there is no last housing assistance payment that would trigger the unit removal date of 180 days. As an alternative requirement, PHAs have the option of removing the unit in which the zero HAP family resides from the HAP contract, but no earlier than 180 days from the start of the family PBV tenancy. If the PHA exercises this option, the family may not be required to move from the unit as a consequence and continues to receive the HUD-VASH supportive services. If the project is fully assisted the PHA may reinstate the unit removed to the HAP contract after the family either vacates the unit or their income decreases to the point that there would be a HAP. If the project is partially assisted, the PHA may substitute a different unit for the unit removed from the HAP contract when the first eligible substitute unit becomes available (in accordance with 24 CFR 983.207). Alternatively, the PHA may choose to simply leave the unit on

the HAP contract while the zero HAP family continues to reside there.

PBV proposal and/or project selection for HUD-VASH must follow all regular proposal and/or project selection regulations, with the following exception. HUD is establishing an alternative requirement under 24 CFR 983.51(c) to permit noncompetitive selection of one or more PBV projects with units made exclusively available to HUD-VASH families on the site of a VA facility. Note that the method of project selection must comply with all other requirements under 24 CFR 983.51, including that the PHA must notify the public of its intent to noncompetitively select one or more projects for PBV assistance through its 5-Year Plan and to ensure any project selection is consistent with the PHA Administrative Plan.

PHAs may consult with their partnering VA medical facility about the option for using PBVs in conjunction with the VA's Enhanced-Use Lease (EUL) Program. The EUL Program authorizes the VA to lease underutilized real estate under its jurisdiction or control to the private sector. Through this program, lessees can develop supportive housing for homeless veterans who will be provided an expanded range of services that would not otherwise be available on medical center campuses.

L. Section Eight Management Assessment Program (SEMAP)

HUD-VASH vouchers remain excluded from the SEMAP leasing indicator. Therefore, 24 CFR 985.3(n)(1)(i) and (ii) are still waived. During a HUD-VASH PHA's calendar year, the prorated budget authority available for HUD-VASH vouchers and the units associated with that budget authority will be excluded from the denominators for both units leased and dollars expended.

M. Reallocation of HUD-VASH Vouchers

HUD-VASH vouchers have been allocated based on geographic need at the time of each allocation. In recognition that there may be changes and shifts in the population of homeless veterans over time, it may become necessary for the VA and HUD to jointly reallocate HUD-VASH vouchers to better address the current needs of the homeless veteran population. This reallocation may be done in one of two ways. If there is continued need at the VA medical facility, HUD-VASH vouchers may be voluntarily moved between PHAs administering HUD-VASH programs within the same VA

medical facility catchment area. Alternatively, if it has been determined that a VA medical facility no longer has sufficient need and will not be able to utilize their available HUD-VASH vouchers, HUD and VA may choose to jointly recapture HUD-VASH vouchers from the VA medical facility and any partnering PHA(s). Recaptured vouchers, and any associated funding, will be reallocated through a national allocation process, to areas with current need. PHAs must follow the process detailed in Notice PIH 2022-25: Voluntary Reallocation or Recapture of HUD-VASH or any superseding notice.

N. Inspections

To expedite the leasing process for tenant-based HUD-VASH, PHAs may pre-inspect available units that veterans may be interested in leasing with a HUD-VASH tenant-based voucher in order to maintain a pool of eligible units. If a HUD-VASH family selects a unit that passed a HQS inspection (without intervening occupancy) within 90 days of the date of the Request for Tenancy Approval (form HUD-52517), the unit may be approved as long as it meets all other conditions under 24 CFR 982.305. As required by 24 CFR 982.353(e), a PHA is prohibited from directly or indirectly reducing the family's opportunity to select among all available units. All regulatory requirements pertaining to HQS found at 24 CFR 5.703 apply to HUD-VASH.

O. Exception Payment Standards

Many housing markets with a high need for HUD-VASH are very competitive with a shortage of affordable rental units. In addition, landlords may be reluctant to rent to individuals experiencing homelessness due to poor credit history or lack of recent rental history. To assist HUD-VASH participants in finding affordable housing, especially in competitive markets, HUD is waiving 24 CFR 982.503(a)(2) and (b) to allow a PHA to establish a separate HUD-VASH exception payment standard. Without this waiver, a PHA is required to establish a single payment standard amount for each unit size. Additionally, 24 CFR 982.503(c) is waived so that PHAs may go up to, but no higher than 120 percent of the published metropolitan area-wide Fair Market Rents (FMRs) or Small Area FMRs (based on the PHA's applicable FMR) specifically for their HUD-VASH program. A PHA that wants to establish a HUD-VASH exception payment standard over 120 percent, as allowed by 24 CFR 982.503(d)(4), must still request approval from HUD through the

process outlined in notice PIH 2018-16, or any successor notices. Exception payment standards implemented by the PHA under this Section also apply in determining rents under 24 CFR 983.301(b) for PBV projects only when the project is comprised solely of units exclusively made available to HUD-VASH families. This is because the contract rents established for the project may not be different based on whether the unit is a HUD-VASH PBV unit or a non-HUD-VASH PBV unit. HUD-VASH PHAs may also establish an exception payment standard up to 140 percent of the published FMR or Small Area FMR (based on which FMR the PHA is applying) only to be applied if required as a reasonable accommodation in accordance with 24 CFR part 8 for a family that includes a person with a disability. Any unit approved under an exception payment standard must still meet the reasonable rent requirements found at § 982.507. To allow this, HUD is waiving Section 8(o)(1)(D) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(1)(D)) and 24 CFR 982.503(d)(5). A PHA may use a payment standard that is greater than 140 percent of FMR as a reasonable accommodation for a person with a disability, but only with HUD approval.

P. Special Housing Types

Special housing types can be particularly useful to HUD-VASH clients, as it can increase the availability of housing and, for some veterans, can be a better housing environment than a single-family unit. As such, PHAs must permit HUD-VASH clients to use the following special housing types for tenant-based HUD-VASH assistance, regardless of whether these types are permitted in their administrative plan for other families: single room occupancy (SRO); congregate housing; group home; shared housing; and cooperative housing. Regulations for these housing types can be found at 24 CFR 982 subpart M. Consistent with the regulations, HUD-VASH PBV can never be applied to shared housing.

Q. Minimum Rents

PHAs must consider hardship circumstances before charging a minimum rent in accordance with 24 CFR 5.630(b). HUD-VASH veteran families may often require hardship exemptions of a PHA established minimum rent. For this reason, PHAs may choose to charge a lower minimum rent (including a minimum rent of \$0) specifically for their HUD-VASH program regardless of the minimum rent policies established in their

administrative plan for other HCV families.

III. Reporting Requirements

The VASH code was established for use on line 2n of the Family Report (form HUD-50058) or 2p of the MTW 50058, to indicate if the family participates in a special program. The information collection requested on both Family Reports has been approved by the Office of Management and Budget (OMB) and given OMB control number 2577-0083. No person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA), unless that collection displays a currently valid OMB control number. This code must remain on the HUD-50058 and MTW 50058 for the duration of the HUD-VASH family's participation in the program. The PHA that administers the HUD-VASH voucher on behalf of the family (regardless of whether the PHA has received an allocation of HUD-VASH vouchers) must enter and maintain this code on the HUD-50058 or MTW 50058.

Data will also be captured in the Voucher Management System (VMS), or any successor system, on monthly leasing and expenditures for HUD-VASH vouchers.

For any additional systems reporting requirements that may be established, HUD will provide further guidance.

Dominique Blom,

General Deputy Assistant Secretary, Office of Public and Indian Housing.

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DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2550

[Application No. D-12022]

Z-RIN 1210 ZA07

Prohibited Transaction Class Exemption 84-14 for Transactions Determined by Independent Qualified Professional Asset Managers (the QPAM Exemption); Correction

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Final amendment to class exemption; technical correction.

SUMMARY: This document gives notice of a technical correction to the Department of Labor's final amendment to class prohibited transaction exemption (PTE) 84-14 (the QPAM Exemption), which was published in the **Federal Register** on April 3, 2024. The QPAM Exemption provides relief from certain prohibited transaction restrictions of Title I of the Employee Retirement Income Security Act of 1974, as amended (ERISA) and Title II of ERISA, as codified in the Internal Revenue Code of 1986, as amended (the Code). The corrections in this document fix a typographical error and make a minor clarification to a provision to reflect the Department's original intent for the effect of the amendment. These technical corrections are consistent with the amended exemption's intended scope and the analysis and data relied upon in the Department's final regulatory impact analysis (RIA).

DATES:

Issuance date: This technical correction is issued on August 13, 2024 without further action or notice.

Exemption Date: The PTE 84-14 amendment, as corrected herein, is effective on June 17, 2024.

FOR FURTHER INFORMATION CONTACT:

Brian Mica, telephone (202) 693-8540, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: This document makes a technical correction to the Department of Labor's final amendment to class prohibited transaction exemption (PTE) 84-14 (the QPAM Exemption), which was published in the **Federal Register** on April 3, 2024 (89 FR 23090).

Background of the QPAM Exemption

A QPAM must be a registered investment adviser, bank, or insurance company that meets asset and equity thresholds set forth in the exemption. Section I of The QPAM Exemption permits an investment fund managed by a QPAM to engage in a broad range of transactions with parties in interest with respect to an ERISA-covered employee benefit plan that invests in the fund as long as the QPAM satisfies certain protective conditions that are set forth in the exemption. These transactions would be prohibited by ERISA and the Internal Revenue Code (the Code) without the relief provided in the exemption. Section I of the QPAM Exemption does not include relief for the QPAM to engage in any transactions involving its own self-dealing or conflicts of interest.

The QPAM Final Amendment

The final amendment to the QPAM Exemption the Department published on April 3, 2024 (the Final Amendment)¹ modifies Section I(g) of the exemption, a provision under which a QPAM may become ineligible to rely on the QPAM Exemption for a period of 10 years if the QPAM, various affiliates, or certain owners of the QPAM are convicted of certain crimes or participate in prohibited misconduct. Among other changes, the final amendment provides a One-Year Transition period to help Plans and IRAs avoid or minimize possible negative impacts of terminating or switching QPAMs or adjusting asset management arrangements when a QPAM becomes ineligible pursuant to Section I(g). During the transition period, ineligible QPAMs must send a notice to their plan clients. Section I(i)(1)(B)(i) of the Final Amendment requires ineligible QPAMs to agree in their Transition Period notice that they will not restrict withdrawals during the Transition Period (the Termination Provision). Also, Section I(i)(1)(B)(ii) of the Final Amendment prohibits Ineligible QPAMs from imposing any "fees, penalties, or charges on client Plans in connection with the process of terminating or withdrawing from and Investment Fund managed by the QPAM. . . ." (The Penalty-Free Withdrawal Provision).

Explanation of Corrections to the Final Amendment

This document makes the following technical corrections to the Final Amendment:

1. Extraneous Word "or" at the End of Section I(g)(1)(B)

The Department is removing the extraneous word "or" that appears at the end of Section I(g)(1)(B) of the Final Amendment due to a scrivener's error.

2. Requirement for Ineligible QPAMs Not To Restrict Withdrawals During the One-Year Transition Period—Section I(i)(1)(B)(i)

As stated above, Section I(i)(1)(B)(i) and (ii) of the Final Amendment require ineligible QPAMs to include the Termination and Penalty-Free Withdrawal Provisions in the One-Year Transition Period notices they send to their plan clients. Both requirements are based on conditions the Department has

¹ See Amendment to Prohibited Transaction Class Exemption 84-14 for Transactions Determined by Independent Qualified Professional Asset Managers (the QPAM Exemption) 89 FR 23090 (April 3, 2024).

included in individual exemptions it has granted to QPAMs that have become ineligible under Section I(g) of the exemption. In the individual exemptions, the Department has included exception language in both conditions that allow QPAMs to place restrictions or impose fees on certain withdrawals to ensure that all fund investors are treated equitably and to prevent a fund's withdrawal from having adverse consequences for other investors remaining in the pooled fund. The exception language protects ERISA-covered plans and IRAs from circumstances that could occur where a few investors immediately withdraw from the fund, resulting in the fund not having sufficient liquidity to satisfy the remaining investors' withdrawal requests, causing delays and potential harm to the remaining investors.

The Department intended to include similar exception language in the Termination and Penalty-Free Withdrawal conditions of the Final Amendment to reflect the language included in the conditions in its individual exemptions and to make the conditions consistent with each other in the Final Amendment. However, the Department inadvertently omitted the exception language from the Termination Provision.

This technical correction reflects the Department's original intent to make the provisions in the Final Amendment consistent with each other and with the provisions in the Department's individual exemptions by adding the following exception language to the Termination provision in Section I(i)(1)(B)(i) of the amended QPAM exemption: “. . . with the exception of reasonable restrictions, appropriately disclosed in advance, that are specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors. In connection with any of these arrangements involving investments in pooled funds subject to ERISA the adverse consequences must relate to a lack of liquidity of the underlying assets, valuation issues, or regulatory reasons that prevent the fund from promptly redeeming a client Plan's investment, and such restrictions must be applicable to all investors in the pooled fund on equal terms and effective no longer than reasonably necessary to avoid the adverse consequences.”

In summary, these technical corrections add language to the exemption that the Department intended to include to make the

Termination and Penalty-Free Withdrawal Provisions consistent with each other and the provisions in the Department's individual exemptions and to fix a scrivener's error. Therefore, based on the limited, corrective purpose of these changes, the Department finds for good cause that a notice and public comment procedure is unnecessary.² The Department further finds good cause to determine that given the limited, corrective purpose of these changes, it is unnecessary to change the effective date of the final amendment, which remains June 17, 2024.³ The corrections do not alter the analysis and data contained in the RIA applicable to the Final Amendment, including the assessment of its costs and benefits.

The Department granted the Final Amendment, which was proposed on its own motion, pursuant to its authority under ERISA section 408(a) and Code section 4975(c)(2).⁴ As required by ERISA section 408(a) and Code section 4975(c)(2), the Department finds that the exemption, as amended and corrected herein, is administratively feasible, in the interests of Plans and their participants and beneficiaries, and protective of the rights of participants and beneficiaries of Plans and IRA owners. For convenience, the Department is re-publishing the full text of the corrected exemption below.

PTE 84-14

Based on the foregoing, PTE 84-14 is corrected to read as follows:

Section I—General Exemption

The restrictions of ERISA section 406(a)(1)(A) through (D) and the taxes imposed by Code section 4975(a) and (b), by reason of Code section 4975(c)(1)(A) through (D), shall not apply to a transaction between a Party in Interest with respect to a Plan and an Investment Fund (as defined in Section VI(b)) in which the Plan has an interest, and which is managed by a Qualified Professional Asset Manager (QPAM) (as defined in Section VI(a)), if the following conditions are satisfied:

² 5 U.S.C. 553(b).

³ 5 U.S.C. 553(d).

⁴ The exemption was granted in accordance with procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637 (October 27, 2011)). Procedures Governing the Filing and Processing of Prohibited Transaction Exemption Applications were amended effective April 8, 2024 (29 CFR part 2570, subpart B (89 FR 4662 (January 24, 2024))). Please note that effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. (2018), transferred the authority of the Secretary of the Treasury to issue exemptions to the Secretary of Labor. Therefore, this notice of amendment to the QPAM Exemption is issued solely by the Department.

(a) At the Time of the Transaction (as defined in Section VI(i)), the Party in Interest, or its Affiliate (as defined in Section VI(c)), does not have the authority to—

(1) Appoint or terminate the QPAM as a manager of the Plan assets involved in the transaction, or

(2) Negotiate on behalf of the Plan the terms of the management agreement with the QPAM (including renewals or modifications thereof) with respect to the Plan assets involved in the transaction;

Notwithstanding the foregoing, in the case of an Investment Fund in which two or more unrelated Plans have an interest, a transaction with a Party in Interest with respect to a Plan will be deemed to satisfy the requirements of this Section I(a) if the assets of the Plan managed by the QPAM in the Investment Fund, when combined with the assets of other Plans established or maintained by the same employer (or Affiliate thereof described in Section VI(c)(1) below) or by the same employee organization, and managed in the same Investment Fund, represent less than ten (10) percent of the assets of the Investment Fund;

(b) The transaction is not described in—

(1) Prohibited Transaction Exemption 2006-16 (71 FR 63786; October 31, 2006) (relating to securities lending arrangements) (as amended or superseded),

(2) Prohibited Transaction Exemption 83-1 (48 FR 895; January 7, 1983) (relating to acquisitions by plans of interests in mortgage pools) (as amended or superseded), or

(3) Prohibited Transaction Exemption 82-87 (47 FR 21331; May 18, 1982) (relating to certain mortgage financing arrangements) (as amended or superseded);

(c) The terms of the transaction, commitments, and investment of fund assets, and any associated negotiations are determined by the QPAM (or under the authority and direction of the QPAM) which represents the interests of the Investment Fund. Either the QPAM, or (so long as the QPAM retains full fiduciary responsibility with respect to the transaction) a property manager acting in accordance with written guidelines established and administered by the QPAM, makes the decision on behalf of the Investment Fund to enter into the transaction, provided that the transaction is not part of an agreement, arrangement, or understanding designed to benefit a Party in Interest. In exercising its authority, the QPAM must ensure that any transaction, commitment, or investment of fund

assets for which it is responsible is based on its own independent exercise of fiduciary judgment and free from any bias in favor of the interests of the plan sponsor or other parties in interest. The QPAM may not be appointed or relied upon to uncritically approve transactions, commitments, or investments negotiated, proposed, or approved by the plan sponsor, or other parties in interest. The prohibited transaction relief provided under this exemption applies only in connection with an Investment Fund that is established primarily for investment purposes. No relief is provided under this exemption for any transaction that has been planned, negotiated, or initiated by a Party in Interest, in whole or in part, and presented to a QPAM for approval to the extent the QPAM would not have sole responsibility with respect to the transaction as required by this Section I(c);

(d) The Party in Interest dealing with the Investment Fund is neither the QPAM nor a person Related to the QPAM;

(e) The transaction is not entered into with a Party in Interest with respect to any Plan whose assets are managed by the QPAM, when combined with the assets of other Plans established or maintained by the same employer (or Affiliate thereof described in subsection VI(c)(1) below) or by the same employee organization, and managed by the QPAM, represent more than twenty (20) percent of the total client assets managed by the QPAM at the time of the transaction; and

(f) At the Time of the Transaction, and at the time of any subsequent renewal or modification thereof that requires the consent of the QPAM, the terms of the transaction are at least as favorable to the Investment Fund as the terms generally available in arm's length transactions between unrelated parties.

(g) Integrity.

(1) Ineligibility due to a Criminal Conviction or Prohibited Misconduct. Subject to the Ineligibility Date provision set forth in Section I(h), a QPAM is ineligible to rely on this exemption for 10 years following:

(A) A Criminal Conviction, as defined in Section VI(r), of the QPAM or any Affiliate thereof (as defined in Section VI(d)), or any owner, direct or indirect, of a five (5) percent or more interest in the QPAM; or

(B) The QPAM, any Affiliate thereof (as defined in Section VI(d)), or any owner, direct or indirect, of a five (5) percent or more interest in the QPAM Participates In Prohibited Misconduct as defined in Section VI(s) and VI(t);

(2) Notice to the Department regarding Participation In Prohibited Misconduct. The QPAM must submit a notice to the Department at QPAM@dol.gov if the QPAM, any Affiliate (as defined in Section VI(d)), or any owner, direct or indirect, of a five (5) percent or more interest in the QPAM, Participates In Prohibited Misconduct as defined in Section VI(s) and VI(t), or enters into an agreement with a foreign government, however denominated by the laws of the relevant foreign government, that is substantially equivalent to a non-prosecution agreement (NPA) or deferred prosecution agreement (DPA) described in section VI(s)(1). The notice must be sent within 30 calendar days after the Ineligibility Date for the Prohibited Misconduct as determined pursuant to Section I(h)(2) below or the execution date of the substantially-equivalent foreign NPA or DPA, and the notice must include a description of the Prohibited Misconduct or the substantially-equivalent foreign NPA or DPA and the name of and contact information for the QPAM.

(h) Ineligibility Date. A QPAM shall become ineligible:

(1) as of the "Conviction Date," which is the date of the judgment of the trial court (or the date of the judgment of any court in a foreign jurisdiction that is the equivalent of a U.S. federal or state trial court), regardless of whether that judgment is appealed; or

(2)(A) as of the date on or after June 17, 2024 that the QPAM, any Affiliate thereof (as defined in Section VI(d)), or any owner, direct or indirect, of a five (5) percent or more interest in the QPAM executes a non-prosecution agreement, or a deferred prosecution agreement described in Section VI(s)(1); or

(B) as of the date on or after June 17, 2024 that a final judgment (regardless of whether the judgment is appealed) or a court-approved settlement is ordered by a Federal or State criminal or civil court in connection with determining that the QPAM, any Affiliate thereof (as defined in Section VI(d)), or any owner, direct or indirect, of a five (5) percent or more interest in the QPAM has engaged in Prohibited Misconduct as defined in Section VI(s)(2) and VI(t).

A person will become eligible to rely on this exemption again only upon a subsequent judgment reversing such person's conviction or civil judgment, the effective date of any individual prohibited transaction exemption it receives that expressly permits the relief in this exemption, or the expiration of the 10-year ineligibility period.

(i) One-Year Transition Period Due to Ineligibility (One-Year Transition Period

or Transition Period). Any QPAM that becomes ineligible under subsection I(g)(1) must provide a Transition Period for its client Plans. Relief is available for transactions (including past transactions) under this exemption during the Transition Period for a maximum period of one year after the Ineligibility Date, provided that the QPAM complies with each condition of the exemption throughout the one-year period (including those additional conditions specified in this subsection (i)). The relief is available during the Transition Period under this exemption only for the QPAM's client Plans that had a pre-existing Written Management Agreement required under subsection VI(a) with the QPAM on the Ineligibility Date. A QPAM must ensure that it manages Plan assets prudently and loyally during the Transition Period. During the Transition Period, the QPAM must comply with the following additional conditions:

(1) Within 30 days after the Ineligibility Date, the QPAM must provide notice to the Department at QPAM@dol.gov and each of its Client Plans stating:

(A) Its failure to satisfy subsection I(g)(1) and the resulting initiation of this One-Year Transition Period;

(B) That during the Transition Period, the QPAM:

(i) Agrees not to restrict the ability of a client Plan to terminate or withdraw from its arrangement with the QPAM, with the exception of reasonable restrictions, appropriately disclosed in advance, that are specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors. In connection with any of these arrangements involving investments in pooled funds subject to ERISA the adverse consequences must relate to a lack of liquidity of the underlying assets, valuation issues, or regulatory reasons that prevent the fund from promptly redeeming a client Plan's investment, and such restrictions must be applicable to all investors in the pooled fund on equal terms and effective no longer than reasonably necessary to avoid the adverse consequences;

(ii) Will not impose any fees, penalties, or charges on client Plans in connection with the process of terminating or withdrawing from an Investment Fund managed by the QPAM except for reasonable fees, appropriately disclosed in advance, that are specifically designed to: (a) prevent generally recognized abusive investment practices, or (b) ensure equitable

treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors, provided that such fees are applied consistently and in a like manner to all such investors;

(iii) Agrees to indemnify, hold harmless, and promptly restore actual losses to the client Plans for any damages that directly result to them from a violation of applicable laws, a breach of contract, or any claim arising out of the conduct that is the subject of a Criminal Conviction or Prohibited Misconduct of the QPAM, an Affiliate (as defined in Section VI(d)), or an owner, direct or indirect, of a five (5) percent or more interest in the QPAM. Actual losses specifically include losses and costs arising from unwinding transactions with third parties and from transitioning Plan assets to an alternative asset manager as well as costs associated with any exposure to excise taxes under Code section 4975 as a result of a QPAM's inability to rely upon the relief in the QPAM Exemption; and

(iv) Will not employ or knowingly engage any individual that Participated In the conduct that is the subject of a Criminal Conviction or Prohibited Misconduct, regardless of whether the individual is separately convicted in connection with the criminal conduct.

(C) An objective description of the facts and circumstances upon which the Criminal Conviction or Prohibited Misconduct is based, written with sufficient detail to fully inform the client Plan's fiduciary of the nature and severity of the conduct so that the fiduciary can satisfy its duties of prudence and loyalty under section 404 of ERISA (29 U.S.C. 1104), as applicable, with respect to hiring, monitoring, evaluating, and retaining the QPAM in a non-QPAM capacity;

(2) As of the Ineligibility Date under Section I(h), the QPAM must not employ or knowingly engage any individual that Participated In the conduct that is the subject of a Criminal Conviction or that Participated In Prohibited Misconduct causing ineligibility of the QPAM under subsection I(g)(1); and

(3) After the One-Year Transition Period expires, and if the Criminal Conviction is not reversed on appeal, the entity may not rely on the relief provided in this exemption until the expiration of the 10-year ineligibility period unless it obtains an individual exemption permitting it to continue relying upon this exemption.

(j) Requests for an Individual Exemption. A QPAM that is ineligible or

anticipates that it will become ineligible due to an actual or possible Criminal Conviction or Participating In Prohibited Misconduct as defined in Sections VI(r) and VI(s) may apply for an individual exemption from the Department to continue to rely on the relief provided in this exemption for a longer period than the One-Year Transition Period. An applicant should review the Department's most recently granted individual exemptions involving Section I(g) ineligibility with the expectation that similar conditions will be required of the applicant, if the Department proposes and grants a requested exemption. To that end, if an applicant requests the Department to exclude any term or condition from its exemption that is included in a recently granted individual exemption, the applicant must include a detailed statement with its exemption application explaining the reason(s) why the proposed variation is necessary and in the interest and protective of affected Plans, their participants and beneficiaries, and individuals for whose benefit a Plan described in Code section 4975(e)(1)(B) or (C) is established (IRA owners). The Department will review such requests consistent with the requirements of ERISA section 408(a) and Code section 4975(c)(2). Such applicants also should provide detailed information in their applications quantifying the specific cost or harms in dollar amounts, if any, their client Plans would suffer if the QPAM could not rely on the exemption after the Transition Period, including the specific dollar amounts of investment losses resulting from foregone investment opportunities and any evidence supporting the proposition that investment opportunities would be available to client Plans on less advantageous terms. An applicant should not construe the Department's acceptance of an individual exemption application as a guarantee that the Department will grant an individual exemption. A QPAM that submits an individual exemption application must ensure that it manages Plan assets prudently and loyally during the Transition Period in accordance with section 404 of ERISA (29 U.S.C. 1104), as applicable.

(k) Any QPAM that relies upon this exemption must notify the Department via email at QPAM@dol.gov. Each QPAM that relies upon the exemption must report the legal name of each business entity relying upon the exemption in the email to the Department and any name the QPAM may be operating under. This notification needs to be reported only

once unless there is a change to the legal name or operating name(s) of the QPAM relying upon the exemption or the QPAM no longer is relying on the exemptive relief provided in the exemption. The QPAM must provide notice to the Department within ninety (90) calendar days of its reliance on the exemption or a change to its legal or operating name. If the QPAM inadvertently fails to provide notice to the Department within the initial 90 calendar day period, it may notify the Department of its reliance on the exemption or name change and failure to report without losing the relief provided by this exemption. This notice must be provided within an additional 90 calendar days along with an explanation for the QPAM's failure to provide notice. A QPAM may notify the Department if it is no longer relying upon this exemption at any time.

Section II—Specific Exemption for Employers

The restrictions of ERISA sections 406(a), 406(b)(1), and 407(a) and the taxes imposed by Code section 4975(a) and (b), by reason of Code section 4975(c)(1)(A) through (E), shall not apply to:

(a) The sale, leasing, or servicing of Goods or the furnishing of services, to an Investment Fund managed by a QPAM by a Party in Interest with respect to a Plan having an interest in the fund, if—

(1) The Party in Interest is an employer any of whose employees are covered by the Plan or is a person who is a Party in Interest by virtue of a relationship to such an employer (described in Section VI(c) below),

(2) The transaction is necessary for the administration or management of the Investment Fund,

(3) The transaction takes place in the ordinary course of a business engaged in by the Party in Interest with the general public,

(4) The amount attributable in any taxable year of the Party in Interest to transactions engaged in with an Investment Fund pursuant to this Section II(a) does not exceed one (1) percent of the gross receipts derived from all sources for the prior taxable year of the Party in Interest, and

(5) The requirements of Sections I(c) through (g) above are satisfied with respect to the transaction.

(b) The leasing of office or commercial space by an Investment Fund maintained by a QPAM to a Party in Interest with respect to a Plan having an interest in the Investment Fund, if—

(1) The Party in Interest is an employer any of whose employees are

covered by the Plan or is a person who is a Party in Interest by virtue of a relationship to such an employer (described in Section VI(c) below);

(2) No commission or other fee is paid by the Investment Fund to the QPAM or to the employer, or to an Affiliate of the QPAM or employer (as defined in Section VI(c) below), in connection with the transaction;

(3) Any unit of space leased to the Party in Interest by the Investment Fund is suitable (or adaptable without excessive cost) for use by different tenants;

(4) The amount of space covered by the lease does not exceed fifteen (15) percent of the rentable space of the office building, integrated office park, or commercial center (if the lease does not pertain to office space);

(5) In the case of a Plan that is not an eligible individual account plan (as defined in ERISA section 407(d)(3)), immediately after the transaction is entered into, the aggregate fair market value of employer real property and employer securities held by the Investment Funds of the QPAM in which the Plan has an interest does not exceed ten (10) percent of the fair market value of the assets of the Plan held in those Investment Funds. In determining the aggregate fair market value of employer real property and employer securities as described herein, a Plan shall be considered to own the same proportionate undivided interest in each asset of the Investment Fund or funds as its proportionate interest in the total assets of the Investment Fund(s). For purposes of this requirement, the term “employer real property” means real property leased to, and the term “employer securities” means securities issued by an employer any of whose employees are covered by the Plan or a Party in Interest of the Plan by reason of a relationship to the employer described in ERISA section 3(14)(E) or (G); and

(6) The requirements of Sections I(c) through (g) above are satisfied with respect to the transaction.

Section III—Specific Lease Exemption for QPAMs

The restrictions of ERISA section 406(a)(1)(A) through (D), 406(b)(1) and (2), and the taxes imposed by Code section 4975(a) and (b), by reason of Code section 4975(c)(1)(A) through (E), shall not apply to the leasing of office or commercial space by an Investment Fund managed by a QPAM to the QPAM, a person who is a Party in Interest of a Plan by virtue of a relationship to such QPAM described in ERISA section 3(14)(G), (H), or (I), or a

person not eligible for the General Exemption of Section I above by reason of Section I(a), if—

(a) The amount of space covered by the lease does not exceed the greater of 7,500 square feet or one (1) percent of the rentable space of the office building, integrated office park, or of the commercial center in which the Investment Fund has the investment;

(b) The unit of space subject to the lease is suitable (or adaptable without excessive cost) for use by different tenants;

(c) At the Time of the Transaction, and at the time of any subsequent renewal or modification thereof that requires the consent of the QPAM, the terms of the transaction are not more favorable to the lessee than the terms generally available in arm’s length transactions between unrelated parties; and

(d) No commission or other fee is paid by the Investment Fund to the QPAM, any person possessing the disqualifying powers described in Section I(a), or any Affiliate of such persons (as defined in Section VI(c) below), in connection with the transaction.

Section IV—Transactions Involving Places of Public Accommodation

The restrictions of ERISA section 406(a)(1)(A) through (D) and 406(b)(1) and (2) and the taxes imposed by Code section 4975(a) and (b), by reason of Code section 4975(c)(1)(A) through (E), shall not apply to the furnishing of services and facilities (and Goods incidental thereto) by a place of public accommodation owned by an Investment Fund managed by a QPAM to a Party in Interest with respect to a Plan having an interest in the Investment Fund, if the services and facilities (and incidental Goods) are furnished on a comparable basis to the general public.

Section V—Specific Exemption Involving QPAM-Sponsored Plans

The relief in Sections I, III, or IV above from the applicable restrictions of ERISA section 406(a), section 406(b)(1) and (2), and the taxes imposed by Code section 4975(a) and (b), by reason of Code section 4975(c)(1)(A) through (E), shall apply to a transaction involving the assets of a Plan sponsored by the QPAM or an Affiliate (as defined in Section VI(c)) of the QPAM if:

(a) The QPAM has discretionary authority or control with respect to the Plan assets involved in the transaction;

(b) The QPAM adopts Written Policies and Procedures that are designed to ensure compliance with the conditions of the exemption;

(c) An independent auditor, who has appropriate technical training or experience and proficiency with ERISA’s fiduciary responsibility provisions and so represents in writing, conducts an Exemption Audit on an annual basis. Following completion of the Exemption Audit, the auditor shall issue a written report to the Plan presenting its specific findings regarding the level of compliance with: (1) the Written Policies and Procedures adopted by the QPAM in accordance with Section V(b) above, and (2) the objective requirements of this exemption. The written report shall also contain the auditor’s overall opinion regarding whether the QPAM’s program complied with: (1) the Written Policies and Procedures adopted by the QPAM, and (2) the objective requirements of the exemption. The Exemption Audit and the written report must be completed within six months following the end of the year to which the audit relates; and

(d) The transaction meets the applicable requirements set forth in Sections I, III, or IV above.

Section VI—Definitions and General Rules

For purposes of this exemption:

(a) The term “Qualified Professional Asset Manager” or “QPAM” means an Independent Fiduciary which is—

(1) A bank, as defined in section 202(a)(2) of the Investment Advisers Act of 1940 that has the power to manage, acquire or dispose of assets of a Plan, which bank has, as of the last day of its most recent fiscal year, Equity Capital in excess of \$1,000,000. Effective as of the last day of the fiscal year ending no later than December 31, 2024, substitute \$1,570,300 for \$1,000,000. Effective as of the last day of the fiscal year ending no later than December 31, 2027, substitute \$2,140,600 for \$1,000,000. Effective as of the last day of the fiscal year ending no later than December 31, 2030, substitute \$2,720,000 for \$1,000,000; or

(2) A savings and loan association, the accounts of which are insured by the Federal Deposit Insurance Corporation that has made application for and been granted trust powers to manage, acquire or dispose of assets of a Plan by a State or Federal authority having supervision over savings and loan associations, which savings and loan association has, as of the last day of its most recent fiscal year, Equity Capital or Net Worth in excess of \$1,000,000. Effective as of the last day of the fiscal year ending no later than December 31, 2024, substitute \$1,570,300 for \$1,000,000. Effective as of the last day of the fiscal year ending no later than December 31, 2027,

substitute \$2,140,600 for \$1,000,000. Effective as of the last day of the fiscal year ending no later than December 31, 2030, substitute \$2,720,000 for \$1,000,000; or

(3) An insurance company which is qualified under the laws of more than one State to manage, acquire, or dispose of any assets of a Plan, which company has, as of the last day of its most recent fiscal year, Net Worth in excess of \$1,000,000 and which is subject to supervision and examination by a State authority having supervision over insurance companies. Effective as of the last day of the fiscal year ending no later than December 31, 2024, substitute \$1,570,300 for \$1,000,000. Effective as of the last day of the fiscal year ending no later than December 31, 2027, substitute \$2,140,600 for \$1,000,000. Effective as of the last day of the fiscal year ending no later than December 31, 2030, substitute \$2,720,000 for \$1,000,000; or

(4) An investment adviser registered under the Investment Advisers Act of 1940 that has total client assets under its management and control in excess of \$85,000,000 as of the last day of its most recent fiscal year, and either (A) Shareholders' or Partners' Equity in excess of \$1,000,000, or (B) payment of all of its liabilities including any liabilities that may arise by reason of a breach or violation of a duty described in ERISA sections 404 and 406 is unconditionally guaranteed by—(i) A person with a relationship to such investment adviser described in subsection VI(c)(1) below if the investment adviser and such Affiliate have Shareholders' or Partners' Equity, in the aggregate, in excess of \$1,000,000; or (ii) A person described in (a)(1), (a)(2) or (a)(3) of Section VI above; or (iii) A broker-dealer registered under the Securities Exchange Act of 1934 that has, as of the last day of its most recent fiscal year, Net Worth in excess of \$1,000,000. Effective as of the last day of the fiscal year ending no later than December 31, 2024, substitute \$101,956,000 for \$85,000,000 and \$1,346,000 for \$1,000,000. Effective as of the last day of the fiscal year ending no later than December 31, 2027, substitute \$118,912,000 for \$85,000,000 and \$1,694,000 for \$1,000,000. Effective as of the last day of the fiscal year ending no later than December 31, 2030, substitute \$135,868,000 for \$85,000,000 and \$2,040,000 for \$1,000,000; Provided that such bank, savings and loan association, insurance company, or investment adviser has acknowledged in a "Written Management Agreement" that it is a fiduciary with respect to each Plan that has retained the QPAM.

(5) By publication through notice in the **Federal Register**, the Department will make subsequent annual adjustments for inflation to the Equity Capital, Net Worth, and asset management thresholds in subsection VI(a)(1) through (4), rounded to the nearest \$10,000, no later than January 31 of each year. The adjustments will be effective as of the last day of the fiscal year in which the increase takes effect, ending no later than December 31 of such fiscal year.

(b) An "Investment Fund" includes single customer and pooled separate accounts maintained by an insurance company, individual trusts and common, collective or group trusts maintained by a bank, and any other account or fund to the extent that the disposition of its assets (whether or not in the custody of the QPAM) is subject to the discretionary authority of the QPAM.

(c) For purposes of Section I(a) and Sections II and V above, an "Affiliate" of a person means—

(1) Any person directly or indirectly, through one or more intermediaries, Controlling, Controlled by, or under Common Control with the person;

(2) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, ten (10) percent or more partner (except with respect to Section II this figure shall be five (5) percent), or highly compensated employee as defined in Code section 4975(e)(2)(H) (but only if the employer of such employee is the Plan sponsor); and

(3) Any director of the person or any employee of the person who is a highly compensated employee, as defined in Code section 4975(e)(2)(H), or who has direct or indirect authority, responsibility or control regarding the custody, management or disposition of Plan assets involved in the transaction. A named fiduciary (within the meaning of ERISA section 402(a)(2)) of a Plan with respect to the Plan assets involved in the transaction and an employer any of whose employees are covered by the Plan will also be considered Affiliates with respect to each other for purposes of Section I(a) above if such employer or an Affiliate of such employer has the authority, alone or shared with others, to appoint or terminate the named fiduciary or otherwise negotiate the terms of the named fiduciary's employment agreement.

(d) For purposes of Section I(g) above an "Affiliate" of a person means—

(1) Any person directly or indirectly through one or more intermediaries, Controlling, Controlled by, or under Common Control with the person;

(2) Any director of, Relative of, or partner in, any such person;

(3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a five percent or more partner or owner; and

(4) Any employee or officer of the person who—

(A) Is a highly compensated employee (as defined in Code section 4975(e)(2)(H) or officer (earning ten (10) percent or more of the yearly wages of such person); or

(B) Has direct or indirect authority, responsibility, or control regarding the custody, management or disposition of Plan assets.

(e) The terms "Controlling," "Controlled by," "under Common Control with," and "Controls" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(f) The term "Party in Interest" means a person described in ERISA section 3(14) and includes a "disqualified person," as defined in Code section 4975(e)(2).

(g) The term "Relative" means a relative as that term is defined in ERISA section 3(15), or a brother, a sister, or a spouse of a brother or sister.

(h) A QPAM is "Related" to a Party in Interest for purposes of Section I(d) above if, as of the last day of its most recent calendar quarter: (i) The QPAM owns a ten (10) percent or more Interest in the Party in Interest; (ii) a person Controlling, or Controlled by, the QPAM owns a twenty (20) percent or more Interest in the Party in Interest; (iii) the Party in Interest owns a ten (10) percent or more Interest in the QPAM; or (iv) a person Controlling, or Controlled by, the Party in Interest owns a twenty (20) percent or more Interest in the QPAM. Notwithstanding the foregoing, a Party in Interest is "Related" to a QPAM if: (i) A person Controlling, or Controlled by, the Party in Interest has an ownership Interest that is less than twenty (20) percent but greater than ten (10) percent in the QPAM and such person exercises Control over the management or policies of the QPAM by reason of its ownership Interest; (ii) a person Controlling, or Controlled by, the QPAM has an ownership Interest that is less than twenty (20) percent but greater than ten (10) percent in the Party in Interest and such person exercises Control over the management or policies of the Party in Interest by reason of its ownership Interest. For purposes of this definition:

(1) The term "Interest" means with respect to ownership of an entity—

(A) The combined voting power of all classes of stock entitled to vote or the total value of the shares of all classes of stock of the entity if the entity is a corporation,

(B) The capital interest or the profits interest of the entity if the entity is a partnership, or

(C) The beneficial interest of the entity if the entity is a trust or unincorporated enterprise; and

(2) A person is considered to own an "Interest" if, other than in a fiduciary capacity, the person has or shares the authority—

(A) To exercise any voting rights or to direct some other person to exercise the voting rights relating to such interest, or

(B) To dispose of or to direct the disposition of such interest.

(i) "At the Time of the Transaction" means the date upon which the transaction is entered into. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into on or after December 21, 1982, or a renewal that requires the consent of the QPAM occurs on or after December 21, 1982, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, the requirements will continue to be satisfied thereafter with respect to the transaction. Notwithstanding the foregoing, this exemption shall cease to apply to a transaction exempt by virtue of Section I or Section II above at such time as the percentage requirement contained in Section I(e) is exceeded, unless no portion of such excess results from an increase in the assets transferred for discretionary management to a QPAM. For this purpose, assets transferred do not include the reinvestment of earnings attributable to those Plan assets already under the discretionary management of the QPAM. Nothing in this paragraph shall be construed as exempting a transaction entered into by an Investment Fund which becomes a transaction described in ERISA section 406 or Code section 4975 while the transaction is continuing, unless the conditions of this exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(j) The term "Goods" includes all things which are movable or which are fixtures used by an Investment Fund but does not include securities, commodities, commodities futures, money, documents, instruments, accounts, chattel paper, contract rights, and any other property, tangible or

intangible, which, under the relevant facts and circumstances, is held primarily for investment.

(k) For purposes of subsection VI(a)(1) and (2) above, the term "Equity Capital" means stock (common and preferred), surplus, undivided profits, contingency reserves, and other capital reserves.

(l) For purposes of subsection VI(a)(2), (3), and (4) above, the term "Net Worth" means capital, paid-in and contributed surplus, unassigned surplus, contingency reserves, group contingency reserves, and special reserves.

(m) For purposes of subsection VI(a)(4) above, the term "Shareholders' or Partners' Equity" means the equity shown in the most recent balance sheet prepared within the two years immediately preceding a transaction undertaken pursuant to this exemption, in accordance with generally accepted accounting principles.

(n) The term "Plan" refers to an employee benefit plan described in ERISA section 3(3) and/or a plan described in Code section 4975(e)(1).

(o) For purposes of Section VI(a) above, the term "Independent Fiduciary" means a fiduciary managing the assets of a Plan in an Investment Fund that is independent of and unrelated to the employer sponsoring such Plan. For purposes of this exemption, the fiduciary will not be deemed to be independent of and unrelated to the employer sponsoring the Plan if such fiduciary directly or indirectly Controls, is Controlled by, or is under Common Control with the employer sponsoring the Plan. Notwithstanding the foregoing: (1) for the period from December 21, 1982, through November 3, 2010, a QPAM managing the assets of a Plan in an Investment Fund will not fail to satisfy the requirements of this section solely because such fiduciary is the employer sponsoring the Plan or directly or indirectly Controls, is Controlled by, or is under Common Control with the employer sponsoring the Plan; and (2) effective after November 3, 2010 a QPAM acting as a manager for its own Plan or the Plan of an Affiliate (as defined in subsection VI(c)(1) above) will be deemed to satisfy the requirements of this section if the requirements of Section V above are met.

(p) An "Exemption Audit" of a Plan must consist of the following:

(1) A review of the Written Policies and Procedures adopted by the QPAM pursuant to Section V(b) above for consistency with each of the objective requirements of this exemption (as described in Section VI(q) below);

(2) A test of a representative sample of the Plan's transactions during the audit period that is sufficient in size and nature to afford the auditor a reasonable basis:

(A) To make specific findings regarding whether the QPAM is in compliance with (i) the Written Policies and Procedures adopted by the QPAM pursuant to Section VI(q) below and (ii) the objective requirements of this exemption, and

(B) To render an overall opinion regarding the level of compliance of the QPAM's program with subsection VI(p)(2)(A)(i) and (ii) above;

(3) A determination as to whether the QPAM has satisfied the definition of a QPAM under the exemption; and (4) Issuance of a written report describing the steps performed by the auditor during the course of its review and the auditor's findings.

(q) For purposes of Section VI(p), the Written Policies and Procedures must describe the following objective requirements of this exemption and the steps adopted by the QPAM to ensure compliance with each of these requirements:

(1) The definition of a QPAM in Section VI(a);

(2) The requirement of Sections V(a) and I(c) regarding the discretionary authority or control of the QPAM with respect to the Plan assets involved in the transaction, in negotiating the terms of the transaction and with respect to the decision on behalf of the Investment Fund to enter into the transaction;

(3) For a transaction described in Section I above:

(A) That the transaction is not entered into with any person who is excluded from relief under Section I(a), Section I(d), or Section I(e) above;

(B) That the transaction is not described in any of the class exemptions listed in Section I(b) above;

(4) If the transaction is described in Section III above:

(A) That the amount of space covered by the lease does not exceed the limitations described in Section III(a) above, and

(B) That no commission or other fee is paid by the Investment Fund as described in Section III(d) above.

(r) "Criminal Conviction" occurs when a QPAM, any Affiliate thereof (as defined in Section VI(d)), or any owner, direct or indirect, of a five (5) percent or more interest in the QPAM:

(1) is convicted in a U.S. federal or state court or released from imprisonment, whichever is later, as a result of any felony involving abuse or misuse of such person's Plan position or employment, or position or employment

with a labor organization; any felony arising out of the conduct of the business of a broker, dealer, investment adviser, bank, insurance company or fiduciary; income tax evasion; any felony involving the larceny, theft, robbery, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, or misappropriation of funds or securities; conspiracy or attempt to commit any such crimes or a crime in which any of the foregoing crimes is an element; or any crime that is identified or described in ERISA section 411; or

(2) is convicted by a foreign court of competent jurisdiction or released from imprisonment, whichever is later, as a result of a crime, however denominated by the laws of the relevant foreign government, that is substantially equivalent to an offense described in (r)(1) above (excluding convictions and imprisonment that occur within a foreign country that is included on the Department of Commerce's list of "foreign adversaries" that is codified in 15 CFR 7.4, as amended).

(s) "Prohibited Misconduct" means when a QPAM, any Affiliate thereof (as defined in Section VI(d)), or any owner, direct or indirect, of a five (5) percent or more interest in the QPAM:

(1) Enters into a non-prosecution (NPA) or deferred prosecution agreement (DPA) on or after June 17, 2024 with a U.S. federal or state prosecutor's office or regulatory agency, where the factual allegations that form the basis for the NPA or DPA would have constituted a crime described in Section VI(r) if they were successfully prosecuted; or

(2) Is found or determined in a final judgment, or court-approved settlement by a Federal or State criminal or civil court that is entered on or after June 17, 2024 in a proceeding brought by the Department, the Department of Treasury, the Internal Revenue Service, the Securities and Exchange Commission, the Department of Justice, the Federal Reserve Bank, the Office of the Comptroller of the Currency, the Federal Depository Insurance Corporation, the Commodities Futures Trading Commission, a state regulator, or state attorney general to have Participated In one or more of the following categories of conduct irrespective of whether the court specifically considers this exemption or its terms:

(A) engaging in a systematic pattern or practice of conduct that violates the conditions of this exemption in connection with otherwise non-exempt prohibited transactions;

(B) intentionally engaging in conduct that violates the conditions of this exemption in connection with otherwise non-exempt prohibited transactions; or

(C) providing materially misleading information to the Department, the Department of Treasury, the Internal Revenue Service, the Securities and Exchange Commission, the Department of Justice, the Federal Reserve Bank, the Office of the Comptroller of the Currency, the Federal Depository Insurance Corporation, the Commodities Futures Trading Commission, a state regulator or a state attorney general in connection with the conditions of the exemption.

(t) "Participate In," "Participates In," "Participating In," "Participated In," and "Participation In" all refer not only to active participation in Prohibited Misconduct, but also to knowing approval of the conduct, or knowledge of such conduct without taking active steps to prohibit such conduct, including reporting the conduct to the appropriate compliance personnel.

(u) The QPAM maintains the records necessary to enable the persons described in subsection (u)(2) below to determine whether the conditions of this exemption have been met with respect to a transaction for a period of six years from the date of the transaction in a manner that is reasonably accessible for examination. No prohibited transaction will be considered to have occurred solely due to the unavailability of such records if they are lost or destroyed due to circumstances beyond the control of the QPAM before the end of the six-year period.

(1) No party, other than the QPAM responsible for complying with this Section VI(u), will be subject to the civil penalty that may be assessed under ERISA section 502(i) or the excise tax imposed by Code section 4975(a) and (b), if applicable, if the records are not maintained or available for examination as required by this Section VI(u) below.

(2) Except as provided in subsection (3) or precluded by 12 U.S.C. 484 (regarding limitations on visitatorial powers for national banks), and notwithstanding any provisions of ERISA section 504(a)(2) and (b), the records are reasonably available at their customary location during normal business hours for examination by:

(A) Any authorized employee of the Department or the Internal Revenue Service or another state or federal regulator,

(B) Any fiduciary of a Plan invested in an Investment Fund managed by the QPAM,

(C) Any contributing employer and any employee organization whose members are covered by a Plan invested in an Investment Fund managed by the QPAM, or

(D) Any participant or beneficiary of a Plan invested in an Investment Fund managed by the QPAM.

(3) None of the persons described in subsection (2)(B) through (D) above are authorized to examine records regarding an Investment Fund that they are not invested in, privileged trade secrets or privileged commercial or financial information of the QPAM, or information identifying other individuals.

(4) Should the QPAM refuse to disclose information to a person described in subsection (2)(A) through (D) above on the basis that the information is exempt from disclosure, the QPAM must provide a written notice advising the requestor of the reasons for the refusal and that the Department may request such information by the close of the thirtieth (30th) day following the request.

(5) A QPAM's failure to maintain the records necessary to determine whether the conditions of this exemption have been met will result in the loss of the relief provided under this exemption only for the transaction or transactions for which such records are missing or have not been maintained. Such failure does not affect the relief for other transactions if the QPAM maintains required records for such transactions in compliance with this Section VI(u).

Signed at Washington, DC, this 1st day of August, 2024.

Lisa M. Gomez,

Assistant Secretary, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2024-17586 Filed 8-12-24; 8:45 am]

BILLING CODE 4510-29-P

FEDERAL MARITIME COMMISSION

46 CFR Part 501

[Docket No. FMC-2024-0007]

RIN 3072-AD01

Agency Seal

AGENCY: Federal Maritime Commission.

ACTION: Direct final rule.

SUMMARY: The Federal Maritime Commission (FMC or "the Commission") is codifying its description of the Commission's seal and prescribing requirements for when the seal can be used. Use by any outside person or organization may be made

only with FMC's prior written approval. Wrongful use of an official seal is subject to administrative action and/or criminal penalty.

DATES: This rule is effective October 15, 2024 without further action unless a significant adverse comment is received by September 12, 2024. If a significant adverse comment is received, FMC will publish a timely withdrawal of the rule in the **Federal Register**.

Commenters should be aware that *Regulations.gov* will only accept comments submitted prior to midnight Eastern Time on the last day of the comment period. The Commission is not obligated to consider comments submitted after the deadline.

ADDRESSES: You may submit comments on the direct final rule to the Commission by using the Federal eRulemaking Portal at www.regulations.gov, under Docket No. FMC-2024-0007. The most helpful comments explain the reason for any recommended change and include data, information, and the authority that supports the recommended change.

FOR FURTHER INFORMATION CONTACT: David Eng, Secretary; Phone: (202) 523-5725; Email: secretary@fmc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Maritime Commission is an independent agency in the executive branch of the United States Government which is responsible for regulating the U.S. international ocean transportation system for the benefit of U.S. exporters, importers, and the U.S. consumer. Section 201(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 46101(d)), provides that the Commission shall have an official seal, and that such seal shall be judicially recognized. The Commission adopted its seal on August 14, 1961. Use of agency seals is governed by 18 U.S.C. 506, which prohibits the use of agency seals except as authorized under regulations made pursuant to law. This proscription is intended to protect the public against the use of a recognizable assertion of authority with intent to deceive (*U.S. v. Goeltz*, 513 F.2d 193 (C.A. Utah 1975), *cert. den.* 423 U.S. 830).

The FMC seal was previously codified at 46 CFR 501.11. The Commission removed the seal from the Code of Federal Regulations on September 10, 2021 (86 FR 50679). Since that time, the official description of the seal has been published on the FMC's website.¹ The

FMC is re-codifying the seal's description to provide clear and direct legal evidence of the seal. Having the description in the Code of Federal Regulations provides direct evidence of the official description of the seal and eliminates the possibility, however unlikely, of there being questions over the official version. This is helpful not only in daily administration of agency business, but also should the need arise to enforce prohibitions in Title 18 of the United States Code regarding misuse of the seal.

In addition to codification of the description of the seal, the Commission is establishing standards regarding the use of the Commission's seal by both the agency itself and outside persons and organizations. The previous codification of the agency seal did not include provisions for the authorization of use. It is beneficial to the agency and the public to have such standards clearly stated and in an easily accessible location. There have been recent occurrences of use of the seal by outside parties that FMC believes is misuse of the seal. Having a codified policy will help to ensure that the seal is used for lawful purposes only.

II. Direct Final Rule

A direct final rule is a final rule that does not go through proposed rulemaking first. We use direct final rulemaking when we expect that the rule will generate no significant adverse comments. We are issuing a direct final rule because we expect this regulatory change to be entirely non-controversial. Accordingly, in accordance with 5 U.S.C. 553(b)(B), the Commission has for good cause determined that the notice and comment requirements are unnecessary. However, to be certain that we are correct, we set the comment period to end before the effective date. If we receive a significant adverse comment, we will withdraw the direct final rule before it becomes effective. For purposes of this rulemaking, a significant adverse comment is one that explains (1) why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the rule will be ineffective or unacceptable without a change. In determining whether a significant adverse comment necessitates withdrawal of this direct final rule, the FMC will consider whether the comment raises an issue serious enough to warrant a substantive response had it been submitted in a standard notice-and-comment process. A comment recommending a change to the rule will not be considered significant and adverse unless the

comment explains how this direct final rule would be ineffective or unacceptable without the change.

Public Participation

Please note that all comments received are considered part of the public record and will be made available for public inspection at <https://www.regulations.gov>. Such information includes personally identifiable information ("PII") (such as your name and address). Any PII that is submitted is subject to being posted to the publicly accessible <https://www.regulations.gov> site without redaction. The Commission will not accept anonymous comments.

The Commission may withhold from public viewing information provided in comments that it determines may impact the privacy of an individual, is offensive, or raises copyright or other legal concerns. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

How do I submit confidential business information?

The Commission will provide confidential treatment for identified confidential information to the extent allowed by law. If you would like to request confidential treatment, pursuant to 46 CFR 502.5, you must submit the following, by email, to secretary@fmc.gov:

- A transmittal letter that identifies the specific information in the comments for which protection is sought and demonstrates that the information is a trade secret or other confidential research, development, or commercial information.
- A confidential copy of your comments, consisting of the complete filing with a cover page marked "Confidential-Restricted," and the confidential material clearly marked on each page.
- A public version of your comments with the confidential information excluded. The public version must state "Public Version—confidential materials excluded" on the cover page and on each affected page and must clearly indicate any information withheld.

III. Regulatory Analyses

Regulatory Flexibility Act

The Chairman of the Federal Maritime Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. The agency is infrequently asked by outside persons or outside

¹ <https://www.fmc.gov/about/fmc-history/#the-fmc-seal>.

organizations to use the agency seal. The rule primarily affects employees of the Federal Maritime Commission.

Congressional Review Act

This rule is not a “major rule” as defined by the Congressional Review Act (5 U.S.C. 801 *et seq.*). The rule will not result in: (1) An annual effect on the economy of \$100,000,000 or more; (2) a major increase in costs or prices; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based companies to compete with foreign based companies. 5 U.S.C. 804(2).

Paperwork Reduction Act

This rule does not impose a Collection of Information under the Paperwork Reduction Act.

National Environmental Policy Act

The Commission’s regulations categorically exclude certain rulemakings from any requirement to prepare an environmental assessment or an environmental impact statement because they do not increase or decrease air, water or noise pollution or the use of fossil fuels, recyclables, or energy, 46 CFR 504.4. This rule describes the

description of the seal of the Federal Maritime Commission and prescribes when the seal can be used. This rulemaking thus falls within 46 CFR 504.4(a).

Executive Order 12988 (Civil Justice Reform)

This rule meets the applicable standards in E.O. 12988, “Civil Justice Reform,” (61 FR 4729, Feb. 7, 1996) to minimize litigation, eliminate ambiguity, and reduce burden.

List of Subjects in 46 CFR Part 501

Seal and insignia.

For the reasons set forth in the preamble, the Commission amends 46 CFR part 501 as follows:

PART 501—THE FEDERAL MARITIME COMMISSION—GENERAL

- 1. The authority citation for part 501 continues to read as follows:

Authority: 5 U.S.C. 551–557, 701–706, 2903 and 6304; 31 U.S.C. 3721; 41 U.S.C. 414 and 418; 44 U.S.C. 501–520 and 3501–3520; 46 U.S.C. 40101–41309, 42101–42109, 44101–44106, 46101–46108; Pub. L. 89–56, 70 Stat. 195; 5 CFR part 2638; Pub. L. 104–320, 110 Stat. 3870.

- 2. Add subpart C to read as follows:

Subpart C—Official Seal

Sec.

- 501.100 Description of official seal.
- 501.101 Authority to affix seal.
- 501.102 Use of replicas, reproductions, and embossing seals within the agency.
- 501.103 Use by outside persons or organizations.
- 501.104 Penalties.

Authority: 18 U.S.C 506; 18 U.S.C. 701; 18 U.S.C. 1017; 28 U.S.C. 1733(b); 46 U.S.C. 46101(d).

Subpart C—Official Seal

§ 501.100 Description of official seal.

(a) The official seal of the Federal Maritime Commission is described as follows: A shield argent paly of six gules, a chief azure charged with a fouled anchor or; shield and anchor outlined of the third; on a wreath argent and gules, an eagle displayed proper; all on a gold disc within a blue border, encircled by a gold rope outlined in blue, and bearing in white letters the inscription “Federal Maritime Commission” in upper portion and “1961” in lower portion. The monochrome version of the official seal appears in figure 1 to this section.

Figure 1 to § 501.100



(b) The shield and eagle above it are associated with the United States of America and denote the national scope of maritime affairs. The outer rope and fouled anchor are symbolic of seamen and waterborne transportation. The date “1961” has historical significance, indicating the year in which the Commission was created.

(c) The seal shall be judicially recognized in accordance with section 201(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 46101(d)).

§ 501.101 Authority to affix seal.

(a) The seal of the Federal Maritime Commission shall be in the custody and control of the Secretary of the Commission.

(b) The Secretary has authority to affix replicas, reproductions, and embossing seals to appropriate documents, certifications, and other material for all purposes as authorized by this subpart, including for the purposes authorized by 28 U.S.C. 1733(b). The Secretary may delegate and authorize redelegations of this authority. The Office of the Secretary shall maintain official records

of such delegations and redelegations (and cancellations thereof).

§ 501.102 Use of replicas, reproductions, and embossing seals within the agency.

(a) Replicas and reproductions of the seal of the Federal Maritime Commission may be used only for:

- (1) Display in or adjacent to:
 - (i) Commission facilities, in Commission auditoriums, presentation rooms, hearing rooms, lobbies, and public document rooms.
 - (ii) Non-Commission facilities in connection with events and displays sponsored by the Commission, or public

appearances of a Commissioner or other senior officials designated by the Secretary.

(iii) Offices of Commissioners and senior Commission officials designated by the Secretary.

(2) Official distinguishing flags of the Federal Maritime Commission adopted by the Commission that incorporate the seal.

(3) Official awards, certificates, medals, and plaques.

(4) Motion picture film and other audiovisual media prepared by, or for the Commission with the agency's approval, and attributed thereto.

(5) Official prestige publications which represent the achievements or mission of the Commission.

(6) Stationary, programs, certificates, diplomas, business and calling cards, or signs and invitations of an official nature prepared by, or on behalf of the Commission with the agency's approval.

(7) Official Commission identification cards and security credentials.

(8) Official publications or graphics issued by and attributed to the Commission, or joint statements of the Commission with one or more Federal agencies, State or local governments, Tribal governments, or foreign governments.

(9) Official Commission exhibit displays.

(10) Protocol gifts handed out by a Commissioner or other senior Commission officials designated by the Secretary.

(11) On athletic clothing or equipment with permission of the Commission for official or informational purposes.

(12) Use of the seal within the agency for any purpose other than as prescribed in this section is prohibited, except that the Secretary of Commission may authorize, on a case-by-case basis, use for purposes other than those prescribed when the Secretary, in consultation with the General Counsel, deems such use to be appropriate.

(b) Embossing seals may be used only on:

(1) Commission legal documents, including interagency or intergovernmental agreements, agreements with States, foreign patent applications, and similar documents.

(2) For other such purposes as determined by the General Counsel of the Federal Maritime Commission.

§ 501.103 Use by outside persons or organizations.

(a) Replicas and reproductions of the seal of the Federal Maritime Commission, physical or digital, by persons and organizations outside of the Commission may be made only with the

Commission's prior written approval. Persons and organizations outside of the Commission are prohibited from using a Commission embossing seal.

(b) Requests by any person or organization outside of the Commission for permission to use the seal must be made in writing electronically to secretary@fmc.gov. The request must specify in detail the exact use to be made. Any permission granted will apply only to the specific use for which it was granted and is not permission for any other use.

(c) The decision whether to grant such a request is made on a case-by-case basis, with consideration of all relevant factors, which may include: the benefit or cost to the Government of granting the request; the unintended appearance of endorsement or authentication by the Commission; the potential for misuse; the effect upon Commission security; the reputability of the use; the extent of the control by the Commission over the ultimate use; and the extent of control by the Commission over distribution of any products or publications bearing the seal.

(d) Use of the seal shall be for informational purposes. The seal may not be used on any article or in any manner which may discredit the seal or reflect unfavorably upon the Commission, or which implies Commission endorsement of commercial products or services, or of the users' policies or activities. All agreements must benefit the Commission; tie to a key communication or operational objective; and demonstrate the ability for significant impact. The Commission reserves the right to cancel such an agreement at any time. Specifically, permission may not be granted under this section for nonofficial use—

(1) On souvenir or novelty items of an expendable nature;

(2) On toys, gifts, or premiums;

(3) As a non-Commission letterhead design; or

(4) On menus, matchbook covers, calendars, or similar items.

(e) Use of the seal for any purpose other than as prescribed in this section is prohibited, except that the Secretary may authorize the use of the seal by outside individuals or organizations, on a case-by-case basis, for purposes other than those prescribed when the Secretary, in consultation with the General Counsel, deems such use to be appropriate.

§ 501.104 Penalties.

(a) Falsely making, forging, counterfeiting, mutilating, or altering the seal of the Federal Maritime

Commission, or knowingly using or possessing with fraudulent intent an altered seal is punishable under 18 U.S.C. 506.

(b) Any person using the seal in a manner inconsistent with the provisions of this subpart is subject to the provisions of 18 U.S.C. 1017, which states penalties for the wrongful use of an agency seal, and other provisions of law as applicable.

(c) Any person using the seal in a manner inconsistent with the provisions of this part is subject to the provisions of 18 U.S.C. 701, which states the penalties for the wrongful use of badges, identification cards, insignia, and other designs prescribed by an agency.

By the Commission.

David Eng,
Secretary.

[FR Doc. 2024–17789 Filed 8–12–24; 8:45 am]

BILLING CODE 6730–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 231215–0305; RTID 0648–XE183]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From North Carolina to Massachusetts

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

ACTION: Temporary rule; quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring a portion of its 2024 commercial summer flounder quota to the Commonwealth of Massachusetts. This adjustment to the 2024 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) quota transfer provisions. This announcement informs the public of the revised 2024 commercial quotas for North Carolina and Massachusetts.

DATES: Effective August 12, 2024 through December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Laura Deighan, Fishery Management Specialist, (978) 281–9184.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.111. These regulations require annual specification

of a commercial quota that is apportioned among the coastal States from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each State is described in § 648.102, and the final 2024 allocations were published on December 21, 2023 (88 FR 88266).

The final rule implementing amendment 5 to the FMP, as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one State to another. Two or more States, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the

evaluation of requests for quota transfers or combinations: (1) the transfers or combinations would not preclude the overall annual quota from being fully harvested; (2) the transfers address an unforeseen variation or contingency in the fishery; and (3) the transfers are consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Regional Administrator has determined these three criteria have been met for the transfer approved in this notification.

North Carolina is transferring 2,353 pounds (lb; 1,067 kilograms (kg)) to Massachusetts through a mutual agreement between the States. This transfer was requested to repay landings made by an out-of-state permitted vessel under a safe harbor agreement. The revised summer flounder quotas for

2024 are: North Carolina, 2,353,195 lb (1,067,391 kg); and Massachusetts, 615,561 lb (279,214 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.102(c)(2)(i) through (iv), which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempted from review under Executive Order 12866.

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

Dated: August 8, 2024.

Claudia Stephanie Womble,

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

[FR Doc. 2024–18037 Filed 8–12–24; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 89, No. 156

Tuesday, August 13, 2024

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

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1112 and 1250

[CPSC Docket No. CPSC–2024–0023]

Safety Standard for Toys: Requirements for Toys Containing Button Cell or Coin Cell Batteries

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission or CPSC) proposes to address the risk of injury and death associated with children ingesting button cell or coin cell batteries obtained from toys by adding performance and labeling requirements for battery-operated toys containing such batteries. The proposed requirements would provide the highest level of safety feasible, and are consistent with the Commission's recent Reese's Law rulemaking and international standards for electronic toys. The Commission also proposes to amend CPSC's list of notice of requirements (NORs) to include toys containing button cell or coin cell batteries.

DATES: Submit comments by October 15, 2024.

ADDRESSES: Comments related to the Paperwork Reduction Act aspects of the marking, labeling, and instructional literature requirements of the NPR should be directed to the Office of Information and Regulatory Affairs, the Office of Management and Budget, Attn: CPSC Desk Officer, FAX: 202–395–6974, or emailed to: oir_submission@omb.eop.gov.

Submit all other comments, identified by Docket No. CPSC–2024–0023, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://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.

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SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

In 2008, Congress passed the Consumer Product Safety Improvement Act of 2008 (CPSIA) providing the CPSC

with new regulatory and enforcement tools, particularly for the purpose of protecting the safety of children. Among other things, section 106(a) of the CPSIA made ASTM International's voluntary standard for toys, ASTM F963–07, *Standard Consumer Safety Specification for Toy Safety* (except sections 4.2 and Annex 4) a mandatory standard beginning 180 days after the enactment date of the CPSIA, on February 10, 2009. 15 U.S.C. 2056b(a). Section 106 also directs the Commission to promulgate toy safety standards that are “more stringent than” the applicable voluntary standard if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product, as well as to periodically review and revise the rules set forth under section 106 to ensure that such rules provide the highest level of safety for such products that is feasible. 15 U.S.C. 2056b(c) and (d).

The CPSIA states that ASTM F963 shall be considered a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (CPSA; 15 U.S.C. 2058). *Id.* Since 2009, CPSC has enforced ASTM F963 as a mandatory standard for toys.¹ In 2017, the Commission codified the mandatory toy standard in 16 CFR part 1250, *Safety Standard Mandating ASTM F963 for Toys*, and incorporated by reference the newly revised ASTM standard at that time, ASTM F963–16. 82 FR 8989 (Feb. 2, 2017). Most recently, on January 18, 2024, the Commission updated part 1250 to incorporate by reference a 2023 revision, ASTM F963–23. 89 FR 3344.

Some toys within the scope of ASTM F963 and 16 CFR part 1250 contain, or are designed to use, button cell or coin cell batteries.² Accordingly, section 4.25 of ASTM F963–23 contains

¹ Since the CPSIA's enactment in 2008, ASTM revised F963 five times: ASTM F963–08, ASTM F963–11, ASTM F963–16, ASTM F963–17, and ASTM F963–23 (approved August 1, 2023).

² In this notice of proposed rulemaking (NPR) we define the phrase “toy containing button cell or coin cell batteries” consistent with the definition of a “consumer product containing button cell or coin batteries” in Reese's Law. 15 U.S.C. 2056e Notes (Definition 4). A “toy containing button cell or coin cell batteries” means a toy containing or designed to use one or more button cell or coin batteries, regardless of whether such batteries are intended to be replaced by the consumer or are included with the product or sold separately. *Id.*, proposed § 1250.3(b).

requirements for “battery-operated toys,” including requirements for toys containing button cell or coin cell batteries. The ASTM requirements are intended to address hazards related to battery overheating, leakage, explosion, fire, and children choking on or swallowing batteries. The 2023 updates to ASTM F963 include improvements to safety requirements for toys that contain button cell or coin cell batteries, such as expanding the application of use and abuse testing of toys and labeling requirements that enhance battery accessibility requirements. However, as discussed in section IV of this preamble, ASTM F963–23 does not establish adequate requirements for toys containing button cell or coin cell batteries because the existing requirements do not address all of the identified hazards and are not as stringent as requirements for non-toy consumer products that are found in 16 CFR part 1263, Safety Standard for Button Cell or Coin Batteries and Consumer Products Containing Such Batteries.

Part 1263 implements Reese’s Law, Public Law 117–171, a law that protects children 6 years old and younger against hazards associated with the ingestion of button cell or coin batteries. 15 U.S.C. 2056e. Reese’s Law, however, excludes children’s toys subject to requirements in 16 CFR part 1250 from its scope. 15 U.S.C. 2056e Note. Specifically, the law states, “The standards promulgated under this Act shall not apply with respect to any toy product that is in compliance with the battery accessibility and labeling requirements of part 1250 of title 16, Code of Federal Regulations[.]”³ Therefore, the current part 1250 standard implementing ASTM F963 does not provide the highest level of safety feasible for such toys.

Accordingly, this notice of proposed rulemaking (NPR) proposes to amend the requirements in part 1250 specific to battery compartments for toys containing button cell or coin cell batteries to align the requirements more closely with the Commission’s new rule

for consumer products containing button cell or coin batteries, codified at part 1263. Further, this NPR proposes revising the title of part 1250 from “Safety Standard Mandating ASTM F963 for Toys” to “Safety Standard for Toys,” to reflect the inclusion of proposed requirements that do not incorporate by reference existing requirements in ASTM F963.⁴

The Commission is authorized to issue this NPR pursuant to both sections 106(c) and (d) of the CPSIA, 15 U.S.C. 2056b(c) and (d). Section 106(d) of the CPSIA, 15 U.S.C. 2056b(d)(2), requires the Commission to: (1) examine and assess the effectiveness of ASTM F963, in consultation with representatives of consumer groups, juvenile product manufacturers, and independent child product engineers and experts; and (2) promulgate consumer product safety standards for such toys. Standards issued under section 106(d) are to be “more stringent than” the applicable voluntary standard if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product. 15 U.S.C. 2056b(d)(2)(B). Since before the CPSIA, CPSC staff has consulted with stakeholders regarding provisions in the toy standard through the ASTM process. Since the passage of Reese’s Law in 2022, CPSC staff has been corresponding with the relevant ASTM Subcommittee and task group, discussing the incident data associated with child battery ingestions, staff’s testing of toy battery compartments, and staff’s recommendations to update the performance and labeling requirements in the toy standard to adequately address the ingestion hazard associated with children accessing button cell or coin cell batteries from toys.⁵

Section 106(c) of the CPSIA, 15 U.S.C. 2056b(c), requires the Commission to periodically review and revise the rules set forth under section 106, to ensure that such rules provide the highest level of safety for such products that is feasible. The NPR proposes to add performance requirements and revise

labeling requirements for toys containing button cell or coin cell batteries that are more stringent than the existing requirements in ASTM F963, which are incorporated by reference into 16 CFR part 1250, and that also provide the highest level of safety feasible, aligning with the requirements in 16 CFR part 1263.

This NPR provides an overview of staff’s assessment and analysis, and it discusses the Commission’s basis for issuing this NPR. Based on the information and analysis in this NPR, the Commission preliminarily determines that the proposed performance and labeling requirements for toys containing button cell or coin cell batteries are more stringent than the existing requirements in ASTM F963–23, would further reduce the risk of injury associated with products within the scope of the NPR, and would provide the highest level of safety for such products that is feasible.

II. Description of Toys Within the Scope of the Rule

Many toys contain or are designed to use button cell or coin cell batteries like those shown in figure 1. Generally, button cell batteries are small, disposable, single-cell batteries that range from 5 mm to 32 mm (0.2 inches to 1.3 inches) in diameter and are 1 mm to 6 mm (0.04 inches to 0.24 inches) in thickness. Common anode materials are zinc or lithium while common cathode materials are manganese dioxide, silver oxide, carbon monofluoride, cupric oxide, or oxygen from the air.⁶ Button cell batteries tend to be manganese dioxide (alkaline) (1.5 volt) or silver oxide (1.55 volt). Lithium coin batteries, also shown in figure 1, were originally developed as a 3-volt power source for low-drain and battery-backup applications because of their high-energy density, correspondingly small size, and long shelf life. Lithium coin batteries are commonly approximately 20 mm (0.787 inch) in diameter.

³ Consistent with 16 CFR part 1250, Reese’s Law defines a “toy product” as “any object designed, manufactured, or marketed as a plaything for children under 14 years of age.” 15 U.S.C. 2056e Notes (Definition 5).

⁴ On July 19, 2024, the Commission voted unanimously (5–0) to publish this NPR.

⁵ See, e.g., August 19, 2022, Letter from Benjamin Mordecai, Project Manager for ASTM F963 to ASTM Subcommittee and Task Group Chair, regarding increasing number of incidents involving children gaining access to button and coin cell

batteries in battery-operated toys, and requesting the toy safety F15.22 subcommittee to review the data and develop more stringent performance requirements to address these incidents in the next few months (available at: (<https://www.cpsc.gov/s3fs-public/8-19-2022-Letter-to-ASTM-Battery-Operated-Toys.pdf?VersionId=PgFoeCeb0BYz0kyg6z87tbwHKv3x9W0y>); and March 20, 2023, Letter from Daniel Taxier, Children’s Product Program Manager, and Benjamin Mordecai, Project Manager for ASTM F963, to ASTM Subcommittee and Task Group Chair, regarding Reese’s Law, CPSC

staff’s toy testing to F963 and UL–4200A, and recommendations for updates to F963 to align with the Commission’s then-proposed NPR to implement Reese’s Law (available at: (<https://www.cpsc.gov/s3fs-public/Letter-to-ASTM-F15-22-Reeses-Law-NPR-230320.pdf?VersionId=6ZGPs5nSLhBGlFdofz1WHF1wo.oOgarH>)).

⁶ Anodes and cathodes are the positive or negative posts of a battery. The different materials allow the battery to lose or gain electrons dependent on the intended function.

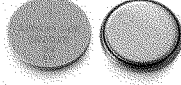
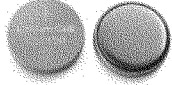
		
LR44 button cell, 11.6mm (0.45 inch) diameter, 5.4mm (0.21 inch) thick	LR754 button cell, 7.9 mm (0.31 inch) diameter, 5.4mm (0.21 inch) thick	LR626 button cell, 6.8 mm (0.26 inch) diameter, 2.6mm (0.10 inch) thick
		
CR2032, 20mm (0.787 inch) diameter	CR2025, 20mm (0.787 inch) diameter	CR2450, 24mm (0.945 inch) diameter

Figure 1. Example Button Cell and Coin Cell Batteries

Section 3.1.9 of ASTM F963–23 defines “battery, button cell” as a “small round non-lithium battery, in which the overall height is less than the diameter” while section 3.1.10 of ASTM F963–23 defines a “battery, coin cell” as a “small, round lithium battery in which the overall height is less than the diameter.” Generally, button cell and coin cell batteries are uniformly defined across safety standards. For example, section 5 of Reese’s Law defines “button cell or coin battery” similarly to the ASTM F963–23 definitions, in relevant

part, as “. . . a single cell battery with a diameter greater than the height of the battery. . . .” 15 U.S.C. 2056e Notes (Definition 1).

A button cell or coin cell battery (also referred to by industry and consumers as a cell or disc/disk battery) stores chemical energy which is converted to electrical energy when the battery is connected to a circuit. A button cell or coin cell battery consists of an anode, a cathode, and a separator and electrolyte between the anode and cathode, as shown in figure 2. When connected with a conductive material, such as

when the battery is pressed into moist human tissue (*i.e.*, when swallowed), the connected battery terminals form an electric circuit, and electric current flows through the conductive material and between the terminals. As already described, button cell or coin cell batteries come in many shapes and sizes and are composed of different materials and chemicals. Requirements for power (voltage and capacity) and size are the main driver of battery shape, chemical composition, and the number of batteries required to operate a toy.

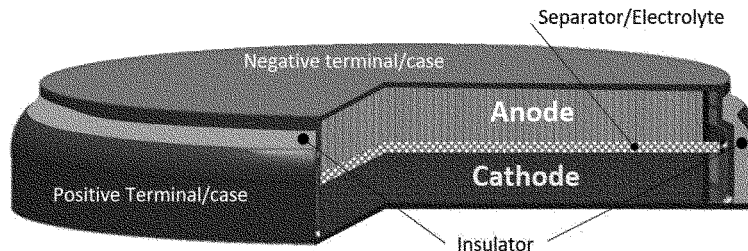


Figure 2. Components of a Button Cell or Coin Cell Battery

Section 3.1.92 of ASTM F963–23 defines a “toy” as “any object designed, manufactured, or marketed as a plaything for children under 14 years of age.” Section 3.1.11 of ASTM F963–23 defines a “battery-operated toy” as a

“toy having at least one function dependent on electricity and powered by batteries.” Figure 3 provides examples of toys containing button cell or coin cell batteries that fall within the scope of this NPR. Such toys include,

but are not limited to, light up toys, talking dolls, remote controlled vehicles, stuffed animals, science kits, musical toys, do-it-yourself light up craft kits, electronic board games, and learning tablets/games.



Figure 3. Examples of Toys Containing Button Cell or Coin Cell Batteries Within the Scope of this Notice of Proposed Rulemaking

Toys containing or designed to use other types of batteries, where the diameter is less than the height, such as AAA or AA batteries, or non-cylindrical batteries, are out of the scope of this NPR because their size and shape does not pose the same type or degree of ingestion hazard as button cell or coin cell batteries.

III. Incident Data and Hazard Patterns

CPSC staff searched two CPSC-maintained databases to identify incidents and hazard patterns associated with button cell and coin cell batteries in toys using product code 0884 for batteries: the Consumer Product Safety Risk Management System (CPSRMS)⁷ and the National Electronic Injury Surveillance System (NEISS).⁸ The

incidents considered were reported as occurring between January 1, 2016, and December 31, 2022. For this period staff identified incidents associated with battery insertions and ingestion, or the risk of ingestion, involving children who were able to access button cell or coin cell batteries from toy battery compartments. Specifically, staff identified one fatal incident and 46 non-fatal incidents in CPSRMS, and 185 NEISS reported hospital emergency department (ED)-treated incidents, associated with children accessing a toy battery compartment. Of the 47 CPSRMS incidents, all but one incident involved children younger than 9 years old, while 170 of the NEISS incidents involved children aged 6 years old or younger.

A. Overview of Button Cell and Coin Cell Battery Hazards

1. Ingestion

Children may be able to access button cell or coin cell batteries when playing with toys that are operated by such batteries. Children may access such batteries if a toy breaks apart and the batteries become exposed or if a battery compartment remains open while a caregiver is changing the batteries. Once exposed, children may remove and ingest the batteries. For example, in CPSC's In-Depth Investigation (IDI) 171024HCC1059, a 20-month-old male ingested a button battery from an electronic toy; the battery was removed surgically, but the child later died from injury. Medical literature details how death and serious injury are associated with button cell or coin cell battery ingestion. Such injuries including choking, internal chemical burns,

chemical leakage, pressure necrosis (tissue damage), the creation of hazardous chemicals (such as sodium hydroxide and hydrochloric acid), and related hazards.⁹ Because of the nature of the risk of injury, as described in this section, it is important to identify a battery ingestion in a timely manner and remove the button cell or coin cell battery from the body to prevent serious injury or death.

CPSC staff reviewed medical literature related to battery-ingestion injuries that confirms ingested button cell or coin batteries can lodge in the esophagus and cause severe tissue damage after only a few hours, as discussed in Tab B of the Reese's Law NPR Staff Briefing Package (SBP).¹⁰ The conductive soft tissue in the digestive tract can form a circuit between the battery terminals, creating an electric current. When lodged in the esophagus, button cell or coin batteries can cause damage to the esophagus, burning nearby tissue and creating perforations. The battery current generates hydroxide when in contact with tissue in the digestive tract. Hydroxide can create

⁷ CPSRMS includes data primarily from three groups of sources: incident reports, death certificates, and in-depth follow-up investigation reports. A large portion of CPSRMS consists of incident reports from consumer complaints, media reports, medical examiner or coroner reports, retailer or manufacturer reports (incident reports received from a retailer or manufacturer involving a product they sell or make), safety advocacy groups, law firms, and Federal, State, or local authorities, among others. It also contains death certificates that CPSC purchases from all 50 states, based on selected external cause of death codes (ICD-10). The third major component of CPSRMS is the collection of in-depth follow-up investigation reports. Based on the incident reports, death certificates, or NEISS injury reports, CPSC field staff conduct in-depth investigations (on-site, telephone, or online) of incidents, deaths, and injuries, which are then stored in CPSRMS.

⁸ NEISS is the source of the injury estimates; it is a statistically valid injury surveillance system. NEISS injury data are gathered from emergency departments of a sample of hospitals with 24-hour emergency departments and at least six beds, selected as a probability sample of all U.S. hospitals. The surveillance data gathered from the sample hospitals enable the CPSC to make timely national estimates of the number of injuries associated with specific consumer products.

⁹ See, *supra* n.3, citing Tab B of Staff's Reese's Law NPR Briefing Package.

¹⁰ The information in this proposed rule is based in part on information and analysis provided in the January 11, 2023, Staff Briefing Package: Draft Proposed Rule to Establish a Safety Standard and Notification Requirements for Button Cell or Coin Batteries and Consumer Products Containing Such Batteries (Staff's Reese's Law NPR Briefing Package), available at: <https://www.cpsc.gov/s3fs-public/NoticeofProposedRulemakingSafetyStandardandNotificationRequirementsforButtonCellorCoinBatteriesandConsumerProductsContainingSuchBatteries.pdf?VersionId=kDinNeydtkkt3T8RRtzN4u1GTXPRjpEl>. Tab B and its appendices contain staff's review of the medical literature and battery ingestion data from the National Capital Poison Center (*Poison.Org*).

chemical burns. Lithium coin batteries pose a particular threat of chemical burn if ingested because such batteries have a higher voltage and capacity than non-lithium batteries. Other injuries associated with button cell or coin battery ingestion include alkaline electrolyte leakage from alkaline button cell batteries or pressure necrosis from extended contact of the battery with tissue.

While ingested button cell or coin batteries may be able to pass through the digestive tract without complications, ingestion complications can occur, usually when such batteries become stuck (impacted) in the esophagus.¹¹ The primary injury from impaction is from the transmission of electric current eliciting the production of sodium hydroxide (NaOH) and hydrochloric acid (HCl) in tissues adjacent to the cathode and anode terminals, respectively.¹² After only a few hours of a battery maintaining contact with moist tissue, tissue pH on either side of the battery increases, causing substantial tissue damage. The erosive and perforating effects of esophageal impaction may continue even after removing the battery.¹³ Another mechanism of injury involves an electrical burn created by electric current passing between the anode and the cathode.

An imperfectly sealed alkaline button cell battery may leak electrolyte solution when ingested, causing injury or death. The large concentration of potassium hydroxide (KOH) in the electrolyte solution is particularly corrosive to human tissue. Alkalis penetrate deep into the tissue layers, which may cause extensive tissue damage.

Another mechanism of injury common to foreign body impaction is pressure necrosis, which creates ischemic,¹⁴ blackened areas of tissue damage.¹⁵ Impaction of a button cell or coin battery in the esophagus leads to esophagus burns in as little as two hours. A burn in the esophagus may cause a perforation of the esophagus or an esophageal stricture (a narrowing of

the esophagus). Perforation or stricture of the esophagus can make eating difficult, requiring use of a feeding tube in the stomach or dilations of the esophagus to expand the stricture to allow normal swallowing.

A button battery that burns through the esophagus can also burn through nearby tissues, creating a fistula, which is an abnormal connection between the esophagus and the other surrounding tissues. When fistulas are created in the esophageal area, they are commonly found with the trachea (tracheoesophageal fistulas or TEF) and with the aorta (aortoesophageal fistulas or AEF). Both of these fistulas are life threatening injuries because they can lead to an open artery and, thus, excessive blood loss. Researchers report that esophageal burns and fistulas sometimes require multiple surgeries to repair.¹⁶ These injuries could require weeks of treatment in a hospital.¹⁷

Diagnosing an ingested button cell or coin battery requires an x-ray because physical examination after ingestion does not always confirm a battery was ingested. Symptoms of button cell or coin battery ingestion, such as respiratory distress, can be mistaken for other ailments, like an asthma attack.¹⁸ As an example, a child who ingested a button cell or coin cell battery may have a fever but no other evidence of having ingested a button cell or coin battery. Alternatively, the physical examination can be normal, making an ingestion diagnosis difficult.¹⁹

Lithium button cell or coin battery ingestions have become more common as such batteries are used in more household products, including toys, than they were historically.²⁰ As noted, lithium batteries pose a significant

safety hazard when ingested because lithium batteries generate a relatively high voltage, causing rapid local injury, even when partially discharged (used). Therefore, even partially discharged batteries can cause life-threatening injuries when ingested. Medical literature confirms that caregivers only have approximately two hours to remove a lithium battery from a child's esophagus to prevent injury.²¹

2. Nasal Insertion

Not only do children ingest button cell or coin cell batteries, but children also insert such batteries into the nasal cavity. For example, in NEISS case 170555849, a 2-year-old male put into his nose a button battery that was likely liberated from a toy, as batteries were later found to be missing from a toy. A proportion of nose insertions ultimately become ingestions or aspirations because such batteries travel through the nasal passage and enter the digestive tract or airways. Button cell or coin batteries impacted in the nose can lead to severe damage to the endonasal mucous membranes (tissue inside the nasal passage), necrosis (tissue damage) of the nasal septum cartilage (the tissue that separates the left and right nostril), and nasal septum perforation.

When the battery is not removed immediately, most children experience long-term effects, such as saddle nose; saddle nose is a flattening of the nose after a battery has damaged the nasal septum to the point of disintegration by burning a hole in the tissue. Reconstructive surgery is required to artificially recreate a septum inside the child's nose. The severity of nasal insertion complications depends on the duration of impact (longer duration can lead to more damage), the type of button cell or coin battery (a higher voltage can cause more damage), and in which part of the nasal cavity the battery gets lodged (the septum is most susceptible to damage because it is the thinnest tissue in the nose). Septum perforation complications can result in lifelong consequences, such as facial deformity.²² A button cell or coin battery that becomes dislodged inside the nose can be ingested, causing

¹¹ Sigalet D, Laes G, Tracheo-esophageal injury secondary to disc battery ingestion, *American Journal of Otolaryngology* 23 (1988) 996–998.

¹² Hamilton JM, Schraff SA, Notrica DM. Severe injuries from coin cell battery ingestions: 2 case reports. *Journal of Pediatric Surgery* (2009) 44, 644–647.

¹³ Gao Y, Wang J, Ma J, Gao Y, Zhang T, Lei P, Xiong X. Management of button batteries in the upper gastrointestinal tract of children. *Medicine* (2020) 99:42.

¹⁴ Ischemia is a condition where blood flow is blocked or reduced, depriving oxygen and nutrients.

¹⁵ Alvi A, Bereliani A, Zahrt GN. Miniature disc battery in the nose: a dangerous foreign body. *Clin Pediatr (Phila)*. 1997 Jul;36(7):427–9.

¹⁶ Slamon NB, Hertzog JH, Penfil SH, Raphaely RC, Pizarro C, Derby CD. An unusual case of button battery-induced traumatic tracheoesophageal fistula. *Pediatric Emergency Care*. Volume 24, Number 5, May 2008.

¹⁷ Liao W, Wen G, Zhang X. Button battery intake as foreign body in Chinese children. Review of case reports and the literature. *Pediatr Emer Care* 2015;31: 412–415; Kimball SJ, Park AH, Rollins II MD, Grimmer JF, Muntz H. A review of esophageal disc battery ingestions and a protocol for management. *Arch Otolaryngology Head Neck Surg/Vol* 136 (NO. 9), SEP 2010. 866–871.

¹⁸ Takahashi T, Teramoto Y, Aoyama T, Sahakibara H, Hara M, Maseki M. Yamaguchi S. Anesthetic management of a child with an esophageal foreign body with was misdiagnosed as asthma. *MASUI. THE JAPANESE JOURNAL OF ANESTHESIOLOGY*. 2009 Feb;58(2):199–201. 199–201.

¹⁹ Cruz CI, Patel D. (2013). Impacted Button-Battery Masquerading as Croup. *The Journal of Emergency Medicine*, Vol.45, No. 1, pp. 30–33.

²⁰ Dawe N, Puvananthran M, flood L. Unwitnessed lithium-ion disc battery ingestion: case report and review of best practice management of an increasing clinical concern. *The Journal of Laryngology & Otology* (2013), 127, 84–87.

²¹ Gao Y, Wang J, Ma J, Gao Y, Zhang T, Lei P, Xiong X. Management of button batteries in the upper gastrointestinal tract of children. *Medicine* (2020) 99:42.

²² Bakshi SS, Coumare VN, Priya M, Kumar S. Long-term complications of button batteries in the nose. *The Journal of Emergency Medicine*, Vol. 50, No. 3, pp. 485–487, 2016.

damage not only to the nasal structure but to the digestive tract as well.²³

Tab B, Appendix B of the Reese's Law NPR SBP shows 56 cases from medical literature of nasal insertion with button cell or coin batteries from 1985 to 2015. The most severe injury is septal perforation after a battery burned a hole in the tissue. Sometimes the battery remained lodged in the nose for long periods of time, sometimes for months, leading to extensive damage to the nose.²⁴ Sometimes an impaction occurred for only a few hours and led to septal perforation of the nose.²⁵

3. Ear Insertion

Button cell or coin batteries inserted into the ear canal cause injuries similar to that of nasal insertions when they become impacted. A button cell or coin battery that is inserted into the ear canal may cause ear drum perforation or destruction, marked erosion of the ear canal with exposed bone, hearing impairment, facial nerve paralysis, and destruction of the small bones in the middle ear.²⁶ Like nose insertions, the severity of ear insertion complications depends on the duration of impact, the voltage of the button cell or coin battery, and in which part of the ear canal the battery gets lodged. Appendix C of the Reese's Law NPR SBP shows 10 cases from medical literature of button cell or coin batteries having been inserted into the ear canal.

B. Incident Data Hazard Scenarios—How Children Accessed Batteries

1. Durability

Fifty reported nonfatal incidents between 2016 and 2022, including 20 CPSRMS and 30 NEISS incidents, involve a toy battery compartment breaking apart or opening unintentionally, allowing children to access and potentially ingest or insert button cell or coin cell batteries. Reports describe battery compartment failures where the toy was dropped (nine incidents), thrown or smashed (two incidents), crushed by foot (one incident), or manipulated by a child's hands or mouth to open the battery

compartment in a manner that defeated the locking mechanism (nine incidents). These incident reports demonstrate that some toy battery compartments are not strong enough to withstand reasonably foreseeable use or abuse to prevent children from accessing batteries. For example, incident I17B0493A describes an 8-year-old male who dropped a light-up spinner toy that easily broke apart; the child swallowed the battery, which required surgery to remove and caused tissue damage to his esophagus. Further, incident I1910003A describes a 3-year-old male who was playing with an action figure when the battery compartment unexpectedly broke open; the consumer indicated they were only able to locate two of three batteries.

The NPR proposes to address these incidents by improving the durability of battery compartments through performance tests. The NPR proposes to require sequential use and abuse testing that aligns with use and abuse testing in part 1263, adopting similar use and abuse performance requirements.

2. Fastener Engagement

Twenty reported nonfatal incidents, including 18 CPSRMS and two NEISS incidents, involve a toy battery compartment fastener, such as a screw, that did not adequately secure or close the compartment, potentially allowing children to access and ingest or insert the button cell or coin cell batteries inside. Incident reports describe failing fasteners as not being long enough to engage the threads (four incidents), fasteners continuously spinning, or threads being stripped (four incidents). These incidents demonstrate that some fasteners do not adequately secure toy battery compartments and that the engagement of the fastener can degrade over time. For example, incident I6C0676A describes a 4-year-old male who was found playing with a light up toy in his room with the battery compartment cover off the toy; the batteries were all located, but the screw intended to secure the battery compartment continuously spun when a caregiver attempted to tighten it. Consistent with part 1263 fastener requirements, and to ensure more durable fastener engagement, the NPR proposes minimum requirements for battery compartment thread attachment as well as a test to simulate repeated battery replacement.

3. Sibling Interaction

Twenty-four (24) reported nonfatal incidents, including seven CPSRMS and 17 NEISS incidents, describe a button cell or coin cell battery becoming accessible from a toy when, for example,

two or more siblings played with a toy together, or a younger sibling played with an older sibling's toy. Incident reports demonstrate that basing performance requirements for the durability of toy battery compartments on the intended user's age does not adequately address typical use and abuse scenarios leading to the ingestion hazard. For example, incident I1910347A describes a 2-year-old female who played with her 4-year-old male sibling's toys; the 2-year-old dropped the toys on the floor and the toys fell apart; three button batteries fell out of the toys. The NPR proposes to address these incidents by improving the durability of battery compartments through performance tests with limited reliance on age grading. The NPR proposes to require sequential use and abuse testing that aligns with testing in part 1263, incorporating UL 4200A–23 performance requirements.

4. Changing Batteries

Seven reported nonfatal incidents, all from NEISS, describe a child accessing a button cell or coin cell battery while a parent or caregiver was changing batteries in a toy. All children involved in these incidents were taken to a hospital for treatment. For example, NEISS case 190447495 describes an incident where a babysitter was changing a button battery in a toy when an 8-month-old male was able to swallow one battery. The NPR proposes to address these incidents by improving required product warning labels for toy battery compartments to better warn consumers about battery ingestion hazards while the consumer is interacting with the compartment.

5. Easily Accessed Battery Compartments

Four reported nonfatal incidents, all from CPSRMS, involve a child who was able to open a toy battery compartment without the use of a tool. For example, IDI 170623CFE0001 describes a 9-year-old boy who opened a battery compartment by pulling a battery compartment access tab with his teeth. The remaining three incidents describe toys that lacked battery compartment securing mechanisms or that opened easily without a tool. The NPR proposes to better address the hazard of easily accessed battery compartment incidents by mandating minimum performance requirements for battery compartment threaded attachments.

C. National Estimates From NEISS

Based on NEISS data, CPSC staff estimates that over the seven-year period from 2016 through 2022 there

²³ Alvi A, Bereliani A, Zahrtz GN. Miniature disc battery in the nose: a dangerous foreign body. Clin Pediatr (Phila). 1997 Jul;36(7):427–9.

²⁴ Fosarelli P, Feigelman S, Pearson E, Calimano-Diaz A. An unusual intranasal foreign body. Pediatric Emergency Care. Vol 4 No 2. 1988;117–118.

²⁵ Liao W, Wen G, Zhang X. Button battery intake as foreign body in Chinese children. Review of case reports and the literature. Pediatr Emer Care 2015;31: 412–415.

²⁶ Bhisitkul DM and Dunham MD. An unsuspected alkaline battery foreign body presenting as malignant otitis external. Pediatric Emergency Care. Vol 8 No 3. 141–142. 1992.

were 4,500 U.S. hospital emergency department visits (sample size = 185, coefficient of variation = 0.1705) associated with a person (generally a child) accessing a button cell or coin cell battery from a toy.²⁷ An estimated 81 percent of victims ingested or swallowed a button cell or coin cell battery or put a button cell or coin cell battery in their mouth. An estimated 92 percent of the victims were children between the ages of 6 months and 5 years old. An estimated 58 percent of the victims were male, while an estimated 42 percent were female. An estimated 81 percent were treated at the hospital emergency department and released, 16 percent were admitted for hospitalization, and 3 percent were held for observation. Of the 185 sample cases supporting these estimates, none were fatal. To ensure that only button cell and coin cell battery incidents involving toys are captured, CPSC staff's estimates do not include cases that failed to identify battery source or battery type. Accordingly, the injury estimates based on NEISS data are conservative and represent a lower bound for actual ED-treated injuries associated with button cell and coin cell batteries in children's toys.

D. Availability of Incident Data

Upon publication of this NPR in the **Federal Register**, CPSC will make available for review and comment, to the extent allowed by applicable law, the CPSC and NEISS incident reports relied upon and discussed, along with the associated IDIs. The data can be obtained by submitting a request to: <https://forms.office.com/g/kSefsxqT3X>.

You will receive a website link to access the data at the email address you provided. If you do not receive a link within two business days, please contact bmordecai@cpsc.gov.

E. Child Supervision and Behavior

Battery compartment security is important for toys containing button cell or coin cell batteries because children often play with these types of toys while unsupervised, and infants or toddlers often mouth objects, leading to incidents of battery ingestion or insertion.

Research by Morrongiello and colleagues (2006)²⁸ indicates that older toddlers and preschool children (ages 2 through 5 years old) typically are out of view of a supervising parent for about 20 percent of their awake time at home and are not within visual range or hearing distance for about 4 percent of awake time in the home because caregivers reasonably allow young children to be unsupervised for a few minutes in a presumably safe room. Most caregivers recognize hazards such as a hot stove and actively guard against them; however, items such as toys reasonably do not present a high level of concern. Therefore, consumers may not be aware that certain toys contain button or coin cell batteries and that such products pose a hazard. Often, caregivers notice that a toy is missing a battery only after a child has already accessed it.

Mouthing and ingestion of non-food items is a normal part of children's exploratory behavior that contributes to incidents of choking and poisoning.²⁹ Because of this, CPSC has banned small

parts for toys intended for children younger than 3 years of age and mandates small-parts warnings for toys and games intended for children ages 3 to 6 years old.³⁰ Still, toys containing button or coin cell batteries pose a similar danger. Unintentional foreign body ingestion is one of the top five leading causes for nonfatal emergency department visits in children under the ages of 9 years old.³¹ Medical literature indicates that children most commonly ingest or insert foreign objects found in the home environment that are small, round, shiny, and relatively smooth, as are button cell and coin batteries.^{32 33}

Children develop rapidly, both physically and cognitively, in the first few years of life, learning to grasp object, bring object to their mouth, stand, and often walk all during the first year.³⁴ Between the ages of 12 to 18 months of age, children progress from walking, to running and climbing. Increased mobility, physical strength, and coordination, combined with an inherent predisposition towards curiosity and exploration can lead to dangerous situations for young children who may discover hazardous items.³⁵

F. Recalls

From January 1, 2011, through March 19, 2024, CPSC's Office of Compliance and Field Operations conducted six recalls of toys containing button cell or coin cell batteries. Table 1 below summarizes the recalls, including the press release date, firm, hazard, approximate number of recalled units, number of incidents and injuries reported, and press release number.

TABLE 1—RECALLS OF TOYS CONTAINING BUTTON CELL OR COIN CELL BATTERIES JANUARY 1, 2011 TO MARCH 19, 2024

Press release date	Firm	Hazard	Approximate number of recalled units	Number of incidents & injuries reported ³⁶	Press release No.
October 10, 2016	Target	The gel clings can separate and expose the inner decal and LED/button battery compartment, posing choking and button battery ingestion hazards to children.	About 172,000 units Halloween LED Gel Clings.	No Injuries Reported	³⁷ 17–020

²⁷ One instance involving an 18-year-old who ingested batteries from a toy is included. Two other cases involve 15-year-old children, although the majority of this data includes substantially younger aged children.

²⁸ Morrongiello, B.A., Corbett, M., McCourt, M., & Johnston, N. (2006). Understanding unintentional injury-risk in young children I. The nature and scope of caregiver supervision of children at home. *Journal of Pediatric Psychology*, 31(6): 529–539.

²⁹ Tulve, N., Suggs, J., McCurdy, T., Cohen-Hubal, E., & Moya, J. (2002). Frequency of mouthing behavior in young children. *Journal of Exposure Analysis and Environmental Epidemiology*. 12, 259–264.

³⁰ 16 CFR part 1501; 16 CFR 1500.19.

³¹ Centers for Disease Control and Prevention. Web-based Injury Statistics Query and Reporting System (WISQARS) [Online]. (2003). National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. Available from: URL: www.cdc.gov/ncipc/wisqars. [10/1/2022].

³² Kay, M., & Wyllie, R. (2005). Pediatric foreign bodies and their management. 7(3):212–8; Lee, J.H., (2018) Foreign Body Ingestion in Children. *Clinical Endoscopy*, 51:129–136; Kramer et al., 2015; Conners GP, & Mohseni M. Pediatric Foreign Body Ingestion. [Updated 2021 Jul 18]. In: StatPearls [internet]. Treasure Island (FL): StatPearls Publishing; 2022 Jan-. Available from: <https://www.ncbi.nlm.nih.gov/books/NBK430915/>

-(accessed 4/12/22) <https://www.ncbi.nlm.nih.gov/books/NBK430915/>.

³³ Svider, P.F., Vong, A., Sheyn, A., Bojrab, D.I., Hong, R.S., Eloy, J.A., and Folbe, A.J. (2015). What are we putting in our ears? A consumer product analysis of aural foreign bodies. *The Laryngoscope*. 125, 709–714; Heim, SW, & Maughan, K.L. (2007). Foreign Bodies in the ear, nose, and throat. *American Academy of Family Physicians*, 76, p. 1186–1189.

³⁴ Frankenburg, W.K., Dodds, J., Archer, P. (1990). *The DENVER II Technical Manual 1990*, Denver Developmental Materials, Denver, CO.

³⁵ <https://www.cpsc.gov/content/2020-Age-Determination-Guidelines>.

TABLE 1—RECALLS OF TOYS CONTAINING BUTTON CELL OR COIN CELL BATTERIES JANUARY 1, 2011 TO MARCH 19, 2024—Continued

Press release date	Firm	Hazard	Approximate number of recalled units	Number of incidents & injuries reported ³⁶	Press release No.
May 23, 2017	Hobby Lobby	The battery cover can detach and expose the small coin cell batteries, posing choking and ingestion hazards to young children.	About 43,400 units Easter and July 4th-themed Light-Up Spinner Toys.	Received one report of a 14-month-old child who ingested the battery.	³⁸ 17–166
December 19, 2019	Toysmith	The battery cover can detach and expose the button-cell batteries, posing choking and ingestion hazards to young children.	About 58,000 units Light-Up Magic Wands.	One report of a child swallowing one of the batteries removed from the toy. Medical attention was required to remove the battery.	³⁹ 20–045
May 12, 2021	K & M International.	The coin cell battery inside the slap watches can fall out, posing battery ingestion and choking hazards to young children.	About 463,000 units Wild Republic Slap Watches.	None reported	⁴⁰ 21–134
December 1, 2021	Halo Brand Solutions.	A child can disassemble the projector flashlight and access the button cell batteries, posing ingestion and choking hazards.	About 82,500 units Projector Flashlights.	Received two reports of children accessing the button cell batteries from the flashlight, and in one case, a child required surgery to remove a swallowed battery.	⁴¹ 22–024

IV. Voluntary Standard Development

ASTM F963 includes performance requirements and test methods for children's toys, as well as requirements for warning labels and instructional literature, to reduce or prevent death of children or injury to children from mechanical, chemical, and other hazards associated with toys. Similar to other ASTM standards, ASTM F963 contains the following sections: scope, terminology, referenced documents, safety requirements, labeling requirements, instructional literature, producer's markings, test methods, and additional sections appropriate for toys, such as age grading and flammability testing of certain types of toys. Since passage of the CPSIA in 2008, the voluntary standard has been revised five times: ASTM F963–08, ASTM F963–11, ASTM F963–16, ASTM F963–17, and ASTM F963–23. Pursuant to the update procedures in section 106 of the CPSIA, the Commission has accepted the sequential revisions as the mandatory standard. 15 U.S.C. 2056b(g).

Section 4.25 of ASTM F963–23 addresses the safety of all battery-

operated toys. Section 4.25.4 addresses the hazards of choking or swallowing batteries. Section 4.25.4.1 addresses the accessibility of batteries from toy battery compartments for children less than 3 years old, while section 4.25.4.2 addresses the accessibility of small part batteries (*i.e.*, batteries that fit within the small parts cylinder described in 16 CFR 1501.4, including button cell or coin cell batteries). The 2023 update to ASTM F963 included changes to strengthen requirements associated with children accessing batteries, such as adding the definition of a “tool” that may be used to access the battery, strengthening labeling requirements associated with battery accessibility, and improving safety requirements by expanding the application of use and abuse testing of toys, including toys containing small part batteries.

Still, ASTM F963–23 does not establish adequate performance requirements for toys containing button cell or coin cell batteries.⁴² Incident data described in section III of this preamble and staff's toy testing in section V of this preamble demonstrate weaknesses in the ASTM toy standard. For example, existing requirements in ASTM F963–23 are not as stringent as performance requirements in part 1263 for non-toy consumer products, which incorporate UL 4200A. Therefore, ASTM F963–23 fails to adequately address children accessing toy battery compartments, leading to children ingesting or inserting button cell or coin batteries, and fails to provide the highest level of safety feasible.

⁴² The Commission issues a direct final rule on September 21, 2023, codifying 16 CFR part 1263, and found that some provisions of ASTM F963 were inadequate to address button cell or coin cell battery hazards. 88 FR 65278, Table 1a.

V. Description and Explanation of the NPR

To address the risk of injury described in section III of this preamble, this NPR proposes to add performance and labeling requirements for toys containing button cell or coin cell batteries. The NPR proposes to add test requirements for captive fasteners, minimum requirements for threaded fasteners, and sequential use and abuse testing (stress relief, battery replacement, impact, crush, torque, tension, compression, and compliance verification tests), and to update marking and labeling requirements. The additional requirements are more stringent than the existing requirements in part 1250 to further reduce the risk of injury from these batteries and represent the highest level of safety feasible to address child ingestion of button cell or coin cell batteries from toys. The additions also are intended to align the requirements for such toys with the requirements for consumer products subject to part 1263, which could promote design and manufacturing efficiencies. This section of the preamble describes the proposed additions in new § 1250.3, Requirements for Toys Containing Button Cell or Coin Cell Batteries.

A. Performance Requirements

Section 106(c) requires that the Commission periodically review and revise the rules for children's toys, including battery-operated toys, to ensure that such rules provide the highest level of safety for such products that is feasible. Section 106(d) requires the Commission promulgate safety standards for toys that are more stringent than ASTM F963 if the Commission determines that more

³⁶ When the recall press release delineates the approximate number of recalled units, number of incidents, or number of injuries by country, this summary only includes the reported United States values.

³⁷ <https://www.cpsc.gov/Recalls/2017/Target-Recalls-Halloween-LED-Gel-Clings>.

³⁸ <https://www.cpsc.gov/Recalls/2017/hobby-lobby-recalls-easter-and-july-4th-light-up-spinner-toys>.

³⁹ <https://www.cpsc.gov/Recalls/2020/Toysmith-Recalls-LightUp-Magic-Wands-Due-to-Choking-and-Ingestion-Hazards>.

⁴⁰ <https://www.cpsc.gov/Recalls/2021/K-M-International-Recalls-Slap-Watches-Due-to-Coin-Cell-Battery-Ingestion-and-Choking-Hazards>.

⁴¹ <https://www.cpsc.gov/Recalls/2022/Halo-Recalls-Promotional-Childrens-Projector-Flashlights-Due-to-Button-Battery-Ingestion-and-Choking-Hazards>.

stringent standards would further reduce the risk of injury.

In the direct final rule by which the Commission implemented Reese's Law (DFR), CPSC staff evaluated the requirements of both ASTM F963–23 and the UL 4200A standard the Commission incorporated by reference pursuant to that statute. 88 FR 65274 (Sept. 21, 2023). Tables 1a and 1b of the DFR that established part 1263 evaluate and compare those two standards. 88 FR 65278–89. Table 1a of the DFR explains

that UL 4200A–23 sets requirements for products that require a tool to open the battery compartment, a captive fastener, a minimum number of fastener threads, or two independent motions to open the battery compartment. An accessibility test measures the adequacy of the requirements. Table 2, below, summarizes CPSC staff's review of ASTM F963–23's relevant provisions and whether a higher level of safety than that provided in ASTM F963–23 is feasible for toys containing button cell

or coin cell batteries, based on the existing performance requirements in UL 4200A–23 (as incorporated by reference for non-toy consumer products in part 1263) and other international voluntary standards for electrical toys and other products, including IEC 62115—*Electric toys—Safety* (IEC 62115) and IEC 62368–1:2023—*Audio/video, information and communication technology equipment—Part 1: Safety requirements* (IEC 62368–1).

TABLE 2—SUMMARY OF ASSESSMENT OF ASTM F963–23 PERFORMANCE REQUIREMENTS IN COMPARISON TO OTHER SAFETY STANDARDS

Requirement category	ASTM F963–23 (section No.—assessment)	Reference (standard—section No.)
<i>Safety Requirements:</i>		
Battery Accessibility—Use and Abuse Testing.	4.25.4—higher level of safety is feasible	UL 4200A–23—6.
Battery Accessibility—Probe	4.25.4.2—higher level of safety is feasible	UL 4200A–23—6.3.5.1.
Captive screws	4.25.4.3—higher level of safety is feasible	IEC 62115—13.4.6.
Threaded fastener securement requirements.	Not Addressed—higher level of safety is feasible.	UL 4200A–23—5.5a.
<i>Use and Abuse Testing:</i>		
Pre-conditioning in oven	Not Addressed—higher level of safety is feasible.	UL 4200A–23—6.2.1a, IEC 62368–1:2023—4.8.4.2.
Simulated battery replacement (×10)	Not Addressed—higher level of safety is feasible.	UL 4200A–23—6.2.1b.
Normal Use Testing	8.5—Inadequate	N/A.
Abuse Testing	8.6—higher level of safety is feasible	UL 4200A–23—6.
Drop test—based on product weight/type ...	8.7.1—higher level of safety is feasible	UL 4200A–23—6.3.2.
Drop test—based on age grading	8.7.1—higher level of safety is feasible	UL 4200A–23—6.3.2.
Battery Compartment Impact Test	Not Addressed—higher level of safety is feasible.	UL 4200A–23—6.3.3.
Crush Test (big surface area)	Not Addressed—higher level of safety is feasible.	UL 4200A–23—6.3.4.
Torque Test	8.8—higher level of safety is feasible	UL 4200A–23—6.3.4A.
Tension Test	8.9—higher level of safety is feasible	UL 4200A–23—6.3.4B.
Compression Test (little surface area)	8.10—higher level of safety is feasible	UL 4200A–23—6.3.4C.

As summarized in table 2, and based on staff's assessment described below, a higher level of safety is feasible for toys containing button cell or coin cell batteries. In fact, only one section of the ASTM standard that is deemed inadequate does not have a comparable UL or International Electrotechnical Commission (IEC) standard. This unique provision, Section 8.5 of ASTM F963–23, addresses normal use testing, which is “intended to simulate normal use conditions so as to ensure that hazards are not generated through normal wear and deterioration. . . . The tests are intended to uncover hazards rather than to demonstrate the reliability of the

toy.” This section does not define any specific test procedures; for example, it provides only that toys with wheels should be “operated repeatedly.” Accordingly, CPSC preliminarily finds that this section is inadequate to consistently identify hazards and that the abuse testing located elsewhere in ASTM F963–23, UL 4200A–23, and other voluntary standards, as discussed below, is better suited to addressing the risks associated with accessible button cell or coin cell batteries.

The NPR proposes the following performance requirements and test methods to improve safety by addressing the hazards of children

ingesting button cell or coin cell batteries that have been accessed from toys.

1. Captive Fasteners

One hazard related to children ingesting button cell or coin cell batteries is that consumers permanently remove or lose the fastener securing the battery compartment cover, thereby exposing the button cell or coin cell battery and allowing child access. Section 4.25.4.3 of ASTM F963–23 requires that fasteners used to secure toy battery compartments shall remain attached to the toy or battery compartment cover before and after

testing in accordance with sections 8.5–8.10. CPSC staff understands that when conducting use and abuse testing of a battery-operated toy in accordance with sections 8.5–8.10 of ASTM F963–23, test laboratories visually inspect any fastener used to secure the battery compartment both before and after testing to verify that the fastener remains attached to the toy or battery compartment cover.

Section 13.4.6 of IEC 62115—*Electric toys—Safety*, contains a similar requirement for use and abuse testing of fasteners but specifies to verify compliance by both inspection and through testing: “A force of 20 N is applied to the screw or similar fastener without jerks for a duration of 10 s in any direction.” Under the IEC 62115 requirements, to pass the test the fastener must remain with the toy or battery compartment cover after compliance verification testing, meaning after using a force to make sure that the fastener does not fall off if pushed or pulled. This test method is more stringent than the ASTM F963 test method that allows purely visual inspection, and improves safety by better ensuring that battery cover fasteners remain attached to the product.

To improve compliance verification, the NPR proposes to incorporate into part 1250 a compliance test for battery-operated toys similar to the IEC requirement. The proposed requirement clarifies how to confirm compliance with the requirement in section 4.25.4.3 of ASTM F963–23 and establishes a minimum threshold of attachment force for the fastener. Therefore, to verify the fastener cannot be easily pulled out by a child, and to align with a similar requirement in the international standard IEC 62115, the NPR proposes to add a sentence to section 4.25.4.3, stating that after use and abuse testing, the battery compartment fastener will be subject to 4.5 lbf (20 N) of force, increasing from 0 lbf to 4.5 lbf, within 5 seconds, which should be maintained for a duration of 10 seconds in any direction likely to remove the fastener. The fastener must remain attached to the battery compartment to pass the test. Such functional testing will help further reduce the risk of injury from accessible button cell or coin cell batteries because it works to ensure fasteners cannot be lost or removed completely, thereby keeping batteries better contained.

2. Minimum Battery Compartment Threaded Attachment Requirements

Another hazard related to children ingesting button cell or coin cell batteries is battery compartments being unsecured because the screws intended to keep the door or cover secure were either too short to remain attached to the toy or did not engage the threads. ASTM F963–23 currently does not have performance requirements addressing the minimum battery compartment fastener length or the removal torque for the door or cover for toys containing batteries.

Section 5.5(a) of UL 4200A–23 includes specific requirements addressing threaded fastener securement and twist-on battery compartment cover securement. In the DFR, the Commission determined that two requirements in UL 4200A–23 adequately ensure battery compartment securement: (1) screws or similar fasteners must engage at least two full threads (*i.e.*, the fasteners must screw into the product for at least two full turns), and (2) battery compartment twist-on access covers shall require a minimum torque of 0.5 Nm (4.4 in-lbf) and a minimum of 90 degrees of rotation to open the compartment. 88 FR 65274.

To ensure that toy battery compartment fasteners are just as secure as non-toy consumer product battery compartment fasteners subject to part 1263, § 1250.3(c)(2)(i) through (iii) of the NPR proposes to add sections 4.25.4.5, .6, and .7 to ASTM F963–23, incorporating requirements consistent with these two UL 4200A–23 provisions. These more stringent requirements work to address incidents of children gaining access to batteries because fasteners had an insufficient length and could be easily removed when the threads did not engage strongly, or twist-on battery compartments were easily opened because minimal force was needed to remove the cover.

3. Sequential Use and Abuse Test Requirements

To address the hazard of button cell or coin cell batteries becoming accessible when a toy breaks, falls apart, or the battery compartment opens unexpectedly, the NPR proposes to add requirements to ensure that batteries remain inaccessible to children during reasonably foreseeable use and misuse of toys. Currently, most of the tests in ASTM F963–23 do not require sequential testing on a battery-operated toy sample. Section 4.25.4 of ASTM F963–23 requires that the accessibility

of button cell or coin cell batteries in toys be determined before and after testing in accordance with the applicable use and abuse test requirements in sections 8.5–8.10. The test requirements include normal use testing, abuse testing, impact testing (including drop testing), torque and tension testing, and compression testing. Each individual test may be performed on a toy or component that has not yet been subjected to the abuse testing, in accordance with section 8.1. The Commission preliminarily determines that sequential testing better addresses real-world scenarios of toys experiencing different uses and abuses over time, such as a drop followed by a crush force. It is foreseeable that a toy will endure multiple and varied uses and abuses over time. Therefore, ensuring that a toy battery compartment can withstand various tests sequentially improves safety.

In contrast to the ASTM test method, section 6 of UL 4200A–23 requires that products containing button cell or coin cell batteries have all use and abuse tests conducted sequentially on the same sample. This sequence of tests includes pre-conditioning of plastic products in the oven, simulated battery replacement, drop testing, battery compartment impact testing, crush testing, torque testing, tension testing, compression testing, and compliance verification testing. The sequential testing in UL 4200A–23 means that each test can affect the results of subsequent testing, which results in a more comprehensive and more stringent series of tests as compared to ASTM F963–23.

Illustratively, prior to the 2023 versions of the ASTM F963 and UL 4200A standards, CPSC staff compared the performance of eight toy products when tested to section 4.25.5 of ASTM F963–17 (equivalent to testing to section 4.25.4.2 of ASTM F963–23) and section 6 of UL 4200A–20.⁴³ Seven of the eight toy products tested were associated with incidents known to CPSC where a child gained access to the toy battery.⁴⁴ Six

⁴³ See March 20, 2023, Letter from Daniel Taxier, Children’s Product Program Manager, and Benjamin Mordecai, Project Manager for ASTM F963, to ASTM Subcommittee and Task Group Chair, regarding Reese’s Law, CPSC staff’s toy testing to F963 and UL–4200A, and recommendations for updates to F963 to align with the Commission’s then-proposed NPR to implement Reese’s Law (available at: <https://www.cpsc.gov/s3fs-public/Letter-to-ASTM-F15-22-Reeses-Law-NPR-230320.pdf?VersionId=6ZGPs5nSLhBGfDdoz1IWHF1wo.oOGarH>).

⁴⁴ Refer to the “Incident” column in table 1 of the March 20, 2023 letter.

out of the eight toy products passed ASTM F963 performance requirements and failed the sequential performance requirements in UL 4200A, meaning the battery became accessible. Five of these six toy products failed the simulated battery replacement test in UL 4200A. Two of these six toy products also failed during the drop test, the impact test, and the compliance verification (accessibility) test. This testing further indicates that the performance requirements in UL 4200A better address known hazard patterns for children accessing battery compartments than requirements in ASTM F963 because they better ensure toy battery compartments remain intact when exposed to foreseeable uses and abuses.

To provide a more stringent toy requirement that improves the safety of toys and aligns with the requirement for non-toy consumer products,⁴⁵ the NPR proposes to require similar sequential use and abuse testing for toys containing button cell or coin cell batteries by adding to part 1250 a sequence of tests based on UL 4200A–23: stress relief; battery replacement; drop or tip-over; impact; crush; torque, tension, and compression; and compliance verification.

a. Stress Relief Test

The NPR proposes requiring a pre-conditioning test to account for thermal stress. Thermoplastics, or polymer materials used in certain molding or forming manufacturing processes (such as acrylic, nylon, Polylactic Acid, and polycarbonate), are susceptible to change when subjected to thermal stresses or heat. In particular, the manufacturing process will leave parts of a molded or formed component stressed after it has cooled to room temperature; then, when exposed to heat, the stress will relax, causing the dimensions and strength of the component to change.

Toys containing button cell or coin cell batteries are regularly exposed to thermal stresses, including during shipping, when left in a hot car or in the sun, and from the battery(ies). To ensure that plastic button cell or coin cell battery compartments in toys are designed and manufactured in a manner that adequately accounts for the effects of heat on the material, the NPR proposes stress relief test requirements that pre-condition the battery compartment, and are intended to ensure that any potential relaxation or

warping of molded or formed thermoplastic components does not affect the mechanical integrity of the battery compartment as determined through the subsequent tests in the sequence.

ASTM F963–23 does not require any pre-conditioning testing of battery-operated toys prior to use and abuse testing. The proposed test method is based on the UL 4200A–23 requirement that the entire toy or toy component be placed in an oven at 70 °C, or 10 °C higher than the maximum operating temperature of the battery compartment, if that temperature would be greater than 70 °C, if any part of the battery compartment is made of molded or formed thermoplastic materials.

The proposed test also incorporates some clarifications based on a similar test in IEC 62368–1:2023, allowing battery compartments and the supporting framework to be removed from large and bulky toys and placed in the oven, without the remainder of the product. This clarification allows components of large and bulky toys to be tested in smaller ovens without compromising the test with a large and bulky object interfering with use of the appropriate test oven. The proposed requirement also clarifies that the batteries may be removed from the compartment during the test, which will not affect the outcome. The proposed pre-conditioning test ensures that battery compartments of toys containing button cell or coin batteries withstand potential thermal stressors that may weaken the compartment and allow children's access to batteries, risking ingestion, or insertion.

b. Battery Replacement Test

The NPR proposes testing requirements for toys with a replaceable battery to address the hazard of battery compartments becoming insecure after a user replaced the battery and the fastener or battery compartment threads became stripped, thereby preventing proper securement of the battery compartment, allowing a child to access the battery. The data described above includes four such nonfatal incidents. ASTM F963–23 does not require any simulated battery replacement tests. However, repeated opening and closing of a battery compartment locking mechanism has the potential to reduce the strength of the lock. This is particularly true when threaded fasteners are used and threads of different hardness engage with each other (such as a metal screw into a plastic toy), creating the potential for the harder material to damage or strip the threads from the softer material.

UL 4200A–23 addresses this hazard in section 6.2.1b by requiring that the battery compartment is opened; the battery is removed and replaced; and the battery compartment is closed and secured 10 times. If the battery compartment is secured with a fastener, the screw must be loosened and tightened using a suitable screwdriver and a continuous linear torque in accordance with the table in § 1250.3, which is the same as table 20 of UL 60065 *Standard for Audio, Video and Similar Electronic Apparatus—Safety Requirements*.⁴⁶

The proposed test method is based on UL 4200A–23, but similar requirements can be found in the international standards IEC 62115 and IEC/UL 62368–1. The test requires that the battery compartment door or cover be opened, the battery removed and replaced, and the battery compartment door closed 10 times. If the battery compartment is secured with one or more screws, then the screws are to be loosened and tightened using a suitable screwdriver, and a continuous linear torque must be used in accordance with the table in § 1250.3, which is the same as the Torque to be Applied to Screws table, table 20, of UL 60065, *Standard for Audio, Video and Similar Electronic Apparatus—Safety Requirements*.

c. Drop Test and Tip Over Test

Drop testing has long been used to assess the durability of toys, yet the data contains reports of 50 nonfatal incidents where a toy's battery compartment broke apart or opened unintentionally, including nine incidents specifically describing the toy as having been dropped. Staff's testing, along with the incident reports, illustrates the need for rigorous drop testing to ensure the integrity of the battery compartment.

Section 8.7.1 of ASTM F963–23 outlines drop test requirements based on the age grading of the toy and specific weight limits. The age grading of the toy determines the maximum weight of the toy subject to the test; the number of drops; and the drop height. For example, a toy for a child age 18

⁴⁶ UL 60065 8th Edition (2015) is an adoption of IEC 60065 *Audio, video, and similar electronic apparatus—Safety requirements* 8th Edition (2014). IEC has granted CPSC permission to reproduce Table 20, Test Probe 11, and Test Probe B with the following disclaimer: "The author thanks the International Electrotechnical Commission (IEC) for permission to reproduce Information from its International Standards. All such extracts are copyright of IEC, Geneva, Switzerland. All rights reserved. Further information on the IEC is available from www.iec.ch. IEC has no responsibility for the placement and context in which the extracts and contents are reproduced by the author, nor is IEC in any way responsible for the other content or accuracy therein."

⁴⁵ This standard has been incorporated by reference in 16 CFR part 1263 as a safety standard for non-toy consumer products.

months or less must weigh 3.01 lbs. (1.4 kg) or less to be subject to the drop test, and it would be dropped 10 times from a height of 4.5 ft; a toy for a child age over 36 months to 96 months must weigh 10.01 lbs. (4.5 kg) or less to be subject to the test, and it would be dropped four times from a height of 3 ft. Toys are dropped in a random orientation onto 1/8-inch-thick vinyl tile over concrete with the batteries in place. Large and bulky toys, defined as toys with a projected base area of more than 400 square inches (0.26 m²) or a volume of more than 3 cubic feet (0.08 m³), are subject to the tip-over test in section 8.7.2 instead of the drop test. These toys are tipped over three times onto the same test surface as used in the drop test.

Comparatively, section 6.3.2 of UL 4200A–23 varies the number of drops for each product based on the weight of the product and how the product is used. A portable device, which is reasonably foreseeable to be routinely carried or lifted but not operated during transit with a mass not exceeding 19 kg (39.7 lbs.), is dropped three times. A hand-held product, which is reasonably foreseeable to be used or misused while being held in one or both hands, with a mass not exceeding 4.5 kg (10 lbs.), is dropped 10 times. Products are dropped in positions likely to produce the maximum force on the battery compartment from a height of 1.0 m (3 ft 3.4 in) onto a hardwood surface.

The application of both the ASTM F963–23 drop test and the UL 4200A–23 depend on characteristics of the product intended to be dropped to determine the appropriate test protocol, and as a result, which of the tests is more stringent than the other depends on what product is being tested. For example, the impact surface used in ASTM F963–23 is harder than the surface used in UL 4200A–23 and is therefore expected to produce greater impact forces on the toy. Meanwhile, all hand-held products weighing 10 lbs. or less are dropped 10 times in UL 4200A–23, while many toys weighing 10 lbs. or less are subject to only four drops or are not dropped at all pursuant to ASTM F963–23 test requirements. Additionally, the drop test in UL 4200A–23 targets the button cell or coin cell battery compartment for failure, while the drop test in ASTM F963–23 is intended to identify ingestion hazards and other hazards, such as small parts, sharp edges, or other hazards generally created by the test.

Because aspects of the drop test in UL 4200A–23 are more stringent than the drop test in ASTM F963–23 and better ensure the integrity of the battery compartment, the proposed test combines aspects of the drop test in UL 4200A–23 with the drop test in ASTM F963–23 to achieve the highest level of safety feasible for toys containing button cell or coin cell batteries. The proposed test surface is vinyl tile on concrete, consistent with the test surface currently used for toy drop testing in ASTM F963–23. The vinyl on concrete test surface will absorb less energy and produce a harder impact as compared to the wood test platform used in UL 4200A–23. The proposed test also uses minimum drop heights based on the specifications in table 5 of ASTM F963–23: 4.5 ft (137 cm) for toys for children aged 0 to 18 months, and 3.0 ft (91 cm) for all other toys. The drop height specified in UL 4200A–23 is 1.0 m (100 cm, 3.3 ft). While the UL 4200A–23 drop height is greater than the proposed drop height for toys for children ages over 18 months, the Commission expects that the harder test platform in the proposed drop test will ultimately make the test at least as stringent as the UL 4200A–23 drop test. This expectation is based on testing of a product which failed both the ASTM F963–23 drop test and the UL 4200A–23 drop test (see section V.A.3. of this preamble).

Establishing separate weight tiers based on age grading is not appropriate for this test given known incidents where sibling interaction could have contributed to the incident, including cases where younger siblings were playing with an older sibling's toy.⁴⁷ Instead, the proposed test method uses a 10 lbs. product weight criteria for all toys to establish a maximum weight for the drop test. The proposed weight limit is consistent with the weight limit for hand-held products in UL 4200A–23, which uses a lesser number of drops for portable devices weighing up to 18 kg (39.7 lbs.) that are carried or lifted but not operated during transit as part of their foreseeable use or misuse. The proposed test adapts the drop test for such portable products in UL 4200A–23 for toys weighing at least 10.01 lbs. up to 39.7 lbs., and it also adds the existing tip-over test for large and bulky toys from section 8.7.2 of ASTM F963–23. CPSC staff anticipates that most toys weighing at least 10.01 lbs. would be subject to the proposed tip-over test,

rather than the proposed drop test. The Commission seeks comment on whether there are toys for which the proposed drop test for toys weighing at least 10.01 lbs. up to 39.7 lbs. would ever be applicable instead of the proposed tip-over test, and whether the drop test should be removed for these heavier toys.

d. Impact Test

The Commission is aware of 50 reported nonfatal incidents where a toy's battery compartment broke apart or opened unintentionally, including two incidents where the toy was described as having been thrown or smashed. To address this hazard, the NPR proposes mandating an impact test directly on the battery compartment. The proposed test is based on the test in UL 4200A–23 and simulates impacts directly to the toy battery compartment.

ASTM F963–23 does not adequately address direct impacts to battery compartment enclosures that can occur when children throw, punch, kick, or smash toys together or against another surface (such as furniture). The drop test in section 8.7.1 simulates random impacts from flat surface contact and the compression test in section 8.10 applies a static load on surfaces not contacted by the flat surface in the drop test, but neither of these tests adequately tests to protect against batteries becoming unintentionally accessed from toy battery compartments because these tests do not simulate direct impacts against the battery compartment.

To address direct impacts to battery compartment enclosures that can occur when children throw, punch, kick, or smash toys together or against another surface (such as furniture), the proposed test adopts the impact test used in UL 4200A–23 and in several other voluntary standards, such as IEC/UL 62368–1, which subjects the battery enclosure or compartment door/cover to three impacts with an energy of 1.5-ft-lbf (2–J). The impacts are produced by either dropping or swinging a 2.00 in. (50.8 mm) diameter steel sphere, weighing approximately 1.1 lbs. (0.5 kg), from the height necessary to produce the specified kinetic energy at impact, as shown in figures 6 and 7. The sphere must strike the battery enclosure or compartment door/cover perpendicular to the surface to ensure the impact has the maximum amount of energy possible.

⁴⁷ CPSC staff has identified 24 such incidents.

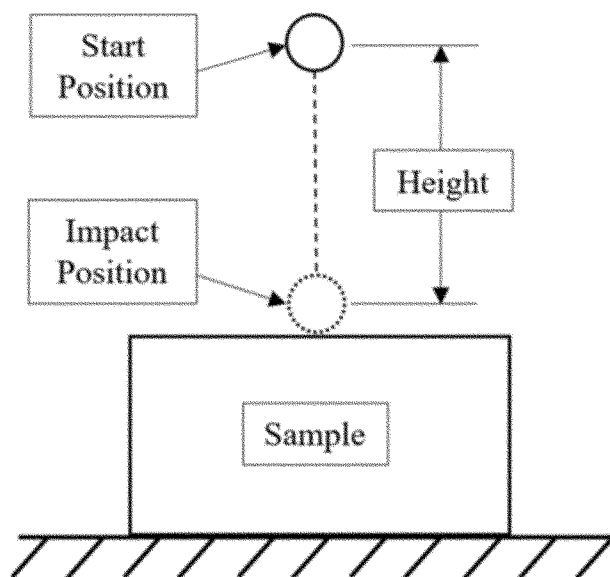


Figure 6. Example impact test with a dropped steel sphere

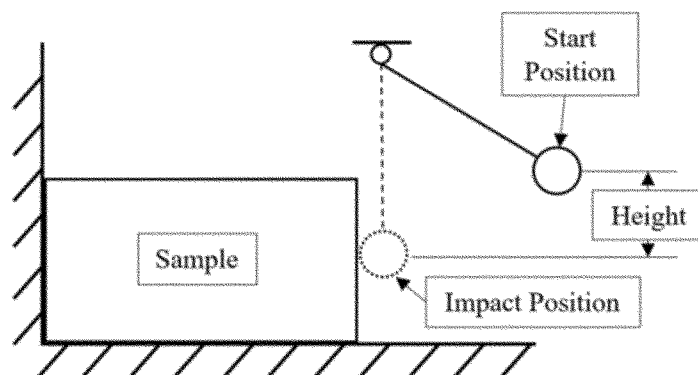


Figure 7. Example impact test with a swinging steel sphere

e. Crush Test

The NPR proposes requiring a test to account for crushing forces exerted on toys during normal use and abuse, such as if a person steps on a toy, to ensure the battery compartment remains intact and does not break open. ASTM F963–23 does not include a test to address this hazard pattern. Staff has reviewed incident data demonstrating that a battery can become accessible when a child crushes a toy that is required to comply with ASTM F963 as incorporated in 16 CFR part 1250. The NPR therefore proposes adopting a crush test based on the test in section 6.3.4 of UL 4200A–23 for all toys subject to the rule. This test simulates a crushing force, such as the force exerted on a toy from a child or adult stepping or sitting on it, to ensure the toy does

not split open and allow access to the battery. The crush test involves placing the toy sample on a fixed rigid supporting surface (such as the floor or a flat rigid table), in stable positions likely to produce the most adverse results. The test applies a crushing force of $74.2 \text{ lbf} \pm 1.1 \text{ lbf}$ ($330 \text{ N} \pm 5 \text{ N}$) for a period of 10 seconds to exposed surfaces using a flat surface measuring approximately 3.9 in by 9.8 in (100 mm by 250 mm). The more stringent requirements directly address one scenario in which children have accessed batteries, as shown in the incident data.

f. Torque, Tension, and Compression Tests

The NPR proposes including torque, tension, and compression tests to

address the hazard of children manipulating a toy with their hands or mouth to open the battery compartment. The data includes nine nonfatal incidents where children were able to open the compartment in this manner. Sections 8.8, 8.9, and 8.10 of ASTM F963–23 include torque, tension, and compression use and abuse tests that simulate a child grasping a component (with at least a thumb and forefinger, or with teeth). Testing involves use of a clamp to grab the toy component, and then the part is twisted (torque) or pulled (tension). The compression test is applied to any area on the surface of a toy that is accessible to a child and not exposed to flat surface contact during the impact (drop) test. A flat metal disk with a diameter of 1.125 inches (28.58 mm) and a thickness of 0.375 inches

(9.52 mm) is pressed into the surface. Like the drop test, the forces and torques applied in these tests depend on the age grading of the toy. Torques range from 1.8 in·lbf to 4.2 in·lbf (0.20 Nm to 0.47 Nm); tensile forces range from 9.5 lbf to 15.5 lbf (42 N to 69 N); and compression forces range from 19.5 lbf to 30.5 lbf (86.7 N to 135.7 N). The torque and tension tests are conducted in sequence with each other, but these tests are otherwise not conducted in sequence with the other ASTM tests.

In contrast, all of the use and abuse tests outlined in UL 4200A–23 are conducted in sequence. UL 4200A–23 requires the same torque, tension, and compression tests as ASTM F963–23 but applies the tests specifically to the battery compartment and has higher minimum torque and force values. Under the UL standard, the minimum torque is 0.5 Nm (4.4 in·lbf);⁴⁸ the minimum tensile force is 72.0 N (16.2 lbf); and the minimum compression force is 136 N (30.6 lbf). These higher forces and torques in the UL test are better able to ensure the integrity of the battery compartment than the ASTM test. Accordingly, the proposed torque, tension, and compression test sequence are based on the existing methods in sections 8.8–8.10 of ASTM F963–23 and must be conducted in the same order in which they appear, while the proposed minimum values align with UL 4200A–23 to achieve the highest feasible level

of safety to best address unintended access to toy battery compartments.

g. Compliance Verification Test

CPSC staff is aware of incidents of children gaining access to button cell or coin cell batteries from toy battery compartments without the use of a tool, such as a screwdriver. Section 4.25.4.2 of ASTM F963–23, *Battery Accessibility*, requires that batteries which fit completely within the small parts test cylinder (including button cell and coin cell batteries), shown in figure 4 from 16 CFR 1501.4, shall not be accessible without requiring the use of a common household tool.⁴⁹ Any area of the toy that can be contacted by any portion forward of the collar of the probes shown in figure 5 is considered to be accessible.⁵⁰ Per section 4.25.4.4, specialty fasteners may also be used to secure the battery compartment.⁵¹ Because the accessibility probes have hinges, they reflect the bending functionality of a finger, however the probes cannot be applied with force like that of a real finger because of limitations associated with hinging ability.

UL 4200A–23 uses a rigid finger probe to determine battery accessibility. Section 5.3 of UL 4200A–23 requires application of a test probe, Test Probe 11 of IEC 61032 *Standard for Protection of Persons and Equipment by Enclosures—Probes for Verification*,

with minimum force before testing to determine accessibility and, per section 6.3.5, application of the probe with 50 N (newtons) to 60 N (11.2 lbf to 13.4 lbf) after testing to verify the battery compartment enclosure remains functional. The data described above includes incidents where children were able to access toy battery compartments by manipulating the product with hands or teeth. To address this hazard, application of a finger probe with force after testing is necessary to verify the secureness of toy battery compartments. This cannot be accomplished with the accessibility probe in ASTM F963–23 but can be accomplished with the accessibility probe in UL 4200A–23. Therefore, the use of the accessibility probe in UL 4200A–23 is necessary to further reduce the risk of injury from accessible button cell or coin cell batteries. To address this hazard, the proposed test uses the design of Test Probe 11 of the *Standard for Protection of Persons and Equipment by Enclosures—Probes for Verification*, IEC 61032.⁵² The probe is used to apply 11.2 lbf + 2.2/–0 lbf (50 N + 10/–0 N) for 10 seconds at the most unfavorable place and in the most unfavorable direction to ensure that the battery compartment door/cover does not open and remains functional, while also verifying that the battery is not touched or made accessible.

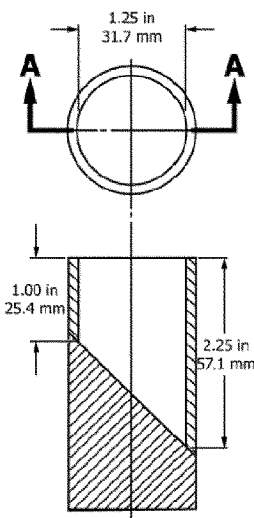


Figure 4. Small Parts Cylinder (16 CFR 1501.4)

⁴⁸ This minimum torque aligns with the required torque for twist-on access covers.

⁴⁹ By definition, common household tools include straight-blade or Phillips screwdrivers, pliers, coins, or other objects commonly found in most households.

⁵⁰ Probe A is for toys age graded for children 0–36 months, and Probe B is for toys age graded for children 37–96 months.

⁵¹ Specialty fasteners (such as with Torx or Hex drivers) may be used to secure battery compartments, so long as the tool is included with the toy and specific instructional material is included.

⁵² IEC 61032, Figure 7—Test Probe 11 directs readers to review Test Probe B for dimensions of the fingertip and tolerances. The proposed additions to § 1250.3 include Test Probe B, to ensure readers may easily review the proposed dimensions and tolerances.

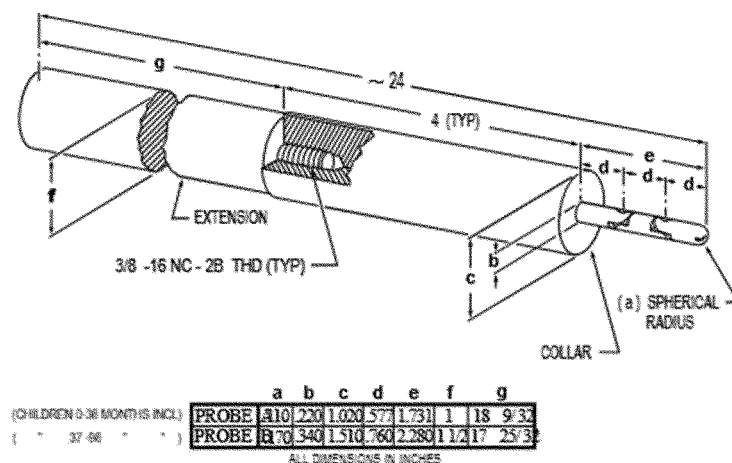


Figure 5. Accessibility Probes

The proposed test method addresses 50 reported nonfatal incidents where the toy battery compartment broke apart or opened unintentionally, including nine nonfatal incidents where children accessed batteries from the battery compartment while playing with the toy with their hands and mouth.⁵³ This test verifies that the battery compartment enclosure remains secure and functional beyond the use of the accessibility probe currently referenced in ASTM F963–23.

B. Marking, Warning, Labeling, and Instructional Literature Requirements

During the Reese's Law rulemaking process, staff evaluated required warnings for battery-operated toys in ASTM F963–17, the previous version of ASTM F963. Tab C, Appendix A, Reese's Law NPR SBP. Warning requirements for battery-operated toys have not changed between the 2017 version of ASTM F963 and ASTM

F963–23. ASTM F963 sets forth uniform methods of addressing mechanical and chemical safety hazards and associated safety messaging in toys that are intended for children. Table 3 summarizes CPSC's review of marking and labeling requirements in ASTM F963–23 and whether a higher level of safety is feasible for toys containing button cell or coin batteries based on requirements in other safety standards. Detail of staff's analysis follows.

TABLE 3—SUMMARY OF ASSESSMENT OF ASTM F963–23 MARKING AND LABELING REQUIREMENTS IN COMPARISON TO UL 4200A–23

Requirement category	ASTM F963–23 (section No.—assessment)	Comparison (standard—section No.)
On Toy Product Packaging	5.14.2—higher level of safety is feasible	UL 4200A–2023—7B.
Warnings:		
On Toy Products	4.25.1—higher level of safety is feasible	UL 4200A–2023—7C.
In Accompanying Instructions	5.14.2—higher level of safety is feasible	UL 4200A–2023—9.

Packaging—Section 5.14.2. of ASTM F963–23 requires that toys powered by “button or coin cell batteries that are 1.5

volts or greater, regardless of chemistry, and are greater than 15mm in diameter and fit within the small parts cylinder”

must have the following warning on the toy packaging:

- **⚠ WARNING:** “Contains button or coin cell battery. Hazardous if swallowed – see instructions” (§ 5.14.2.1 (1)).

Products with batteries subject to the packaging requirements specified in UL 4200A–23 are not limited by battery voltage or diameter; all consumer products containing button cell or coin cell batteries are included (with the exception of toys and zinc-air batteries). The Commission has determined that zinc-air button cell or coin batteries do not present an ingestion hazard. 16 CFR

1263.1(d). Both ASTM F963–23 and UL 4200A–23 require similar warning formats with a signal word, safety alert symbol (e.g., exclamation mark in a triangle), and message statement noting the presence of button cell or coin cell batteries. The UL 4200A–23 warning label improves safety compared to the ASTM warning, however, because it also provides an explicit hazard

statement and detailed hazard information, the severity and consequences if the warning is disregarded, and appropriate hazard-avoidance behaviors. The warning additionally instructs the consumer to take appropriate action should they suspect a button cell or coin cell battery was ingested. Specifically, the warning

⁵³ In one of these incidents, Y214K670A, the battery compartment opened while the fastener

remained in place. This failure mode may not be detected using ASTM F963–23's existing

accessibility probe because the probe cannot be applied with force due to its joints.

label shall have the following statements,

- **INGESTION HAZARD:** This product contains a button cell or coin battery.
- **DEATH** or serious injury can occur if ingested.
- A swallowed button cell or coin battery can cause *Internal Chemical Burns* in as little as 2 hours.
- **KEEP** new and used batteries **OUT OF REACH OF CHILDREN**.
- *Seek immediate medical attention* if a battery is suspected to be swallowed or inserted inside any part of the body.

The UL warning label format uses a bulleted list, capitalization, and bolding that aligns with industry best practices as outlined in ANSI Z535.4 (American National Standard for Product Safety Signs and Labels) and ASTM's Ad Hoc Language Task Group recommendations. Additionally, UL 4200A–23 incorporates the use of a safety icon accompanying the text to quickly attract the reader's attention to the label. Either the "Keep out of Reach" icon or the internationally

recognized "Warning: Contains coin battery" icon may be used depending on applicability.

Product—ASTM F963–23 safety labeling requirements for toys that use batteries must specify the type of battery, the size of the battery, and the number of batteries used within the toy. Section 4.25.1 of ASTM F963–23 requires that the toy be marked with battery polarity, size, and voltage, although size and voltage may be provided in the instructions. It also requires additional on-product markings if the toy is powered by more than one battery per circuit. Pursuant to section 6.5 and 5.14 of ASTM F963, the toy or instructions must state the following:

- "Do not mix old and new batteries."
- "Do not mix alkaline, standard (carbon-zinc), or rechargeable batteries."
- "Battery is not replaceable" (if applicable).

Additionally, the location of on-product safety labeling is dependent on the size of the product, as determined

by the manufacturer. If the product is too small, the above information must be included in the toy instructions. Button cell or coin cell battery-operated toys are not required to be marked if the toy is so small that marking is not feasible. UL 4200A–23 on-product marking requirements include a warning label identifying an ingestion hazard and the presence of a button cell or coin cell battery. If the toy's small size limits the ability to print a warning on the product, the warning can be replaced with an internationally recognized warning icon. If a toy's small size does not allow inclusion of an on-product warning or icon, UL 4200A–23 requires that a hangtag or sticker label be included with the toy.

Instructions—ASTM F963–23 requires toys powered by "button or coin cell batteries that are 1.5 volts or greater, regardless of chemistry, and are greater than 15mm in diameter and fit within the small parts cylinder" to have the following instructions:

⚠ WARNING: This product contains a Button or Coin Cell Battery. A swallowed Button or Coin Cell Battery can cause internal chemical burns in as little as two hours and lead to death. Dispose of used batteries immediately. Keep new and used batteries away from children. If you think batteries might have been swallowed or placed inside any part of the body, seek immediate medical attention.

If the toy does not come with instructions, the above warning must be on the packaging or on a paper insert inside the toy packaging. Products with accessible (with the use of a coin, screwdriver or household tool), non-replaceable batteries must contain a statement that the batteries are not replaceable. UL 4200A–23 has the same requirement for non-replaceable button cell or coin cell batteries. As previously discussed, the UL 4200A–23 warning label requires detailed warning message statements and a safety icon to capture the reader's attention; these requirements are not dependent on battery voltage or diameter. This same warning must be printed on the instructions or manual if provided. Similar to the ASTM F963–23 standard, should no instructions or manual be provided, UL 4200A–23 requires the warning to be on the packaging, or it must be on a hangtag or sticker label if the product does not include packaging. UL 4200A–23 requires additional battery safety information on the product packaging or in the instructions/manual as applicable.

These statements address battery replacement and disposal, compatibility with the product, securement of the battery compartment, and electrical or fire hazards associated with misused batteries.

Section 1263.4, which implements Reese's Law for consumer products generally, establish warning label requirements for the packaging of button cell or coin batteries, while § 1263.3 incorporates the labeling requirements in UL 4200A–23, which establish warnings for the consumer product packaging, battery compartment, and accompanying instructional materials. To provide the highest level of safety feasible, this NPR seeks to align required warnings for toy packaging, toy battery compartments, and accompanying instructional literature, with part 1263 because such requirements are worded and formatted in a manner that better warns of hazards identified in the incident data and better captures reader's attention.

The proposed formatting requirements taken from part 1263 are based largely on warning label research

and ANSI Z535.4, which is the primary voluntary consensus standard providing guidelines for the design of safety signs and labels for application to consumer products. ANSI Z535.4 includes recommendations for the design, application, use, and placement of warning labels, such as having the signal word "WARNING" and the safety alert symbol of an equilateral triangle surrounding an exclamation mark. Tab C, Reese's Law NPR SBP. Children's juvenile product standards, as well as standards involving common household items that may be hazardous to children, commonly rely on the warning formatting specifications in ANSI's Z535.4.

Spare batteries included with toys not contained in child-resistant packaging present an ingestion hazard to children. Pursuant to section 3 of Reese's Law, the Commission already requires that button cell or coin cell batteries included separately within toy packaging meet child resistant packaging requirements to address the possibility of children opening and accessing the contents of retail toy

packaging. As such, the Commission already requires that button cell or coin cell battery packaging, including button cell or coin cell batteries sold separately along with a toy, meet § 1263.4, Requirements for labeling of button cell or coin battery packaging.

VI. Feasibility of Proposed Requirements

Pursuant to section 106(c) of the CPSIA, Congress directed the Commission to “periodically review and revise the rules set forth under this section to ensure that such rules provide the highest level of safety for such products that is feasible.” 15 U.S.C. 2056b(c). The safety hazards identified in section III of this preamble can feasibly be addressed by the requirements proposed in this NPR.

Many toys on the market already comply with the proposed requirements. The technology to comply is already available (e.g., threaded fasteners), and the proposed requirements align with existing, already-required performance requirements applicable to non-toys products in part 1263, which are currently on the market. Third party labs are already International Organization for Standardization (ISO) accredited and CPSC-accepted to test to UL 4200A; complying with the proposed requirements for toys would use the same or similar testing and test equipment.

Nor will the proposed rule present insurmountable economic challenges. Staff estimates that only 20 percent of the manufacturers and importers/wholesalers (approximately 3,775) would incur any costs related to redesign required by the proposed rule. As stated in section IX of this preamble, the maximum cost expected per firm to redesign a battery compartment is \$6,586, which equates to a maximum total cost to the industry of approximately \$25 million. Estimates of U.S. children’s toys sales revenue in 2023, published by Circana,⁵⁴ equate to a total industry size of \$28 billion. Maximum cost estimates are 0.09 percent of revenue.

VII. Effective Date

The Administrative Procedure Act (APA) generally requires that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). The rule would apply to all toys containing button cell or coin

cell batteries manufactured after the effective date. 15 U.S.C. 2058(g)(1).

Although many toys may already comply with the proposed requirements, some toys would need to be redesigned, and all toys containing button cell or coin cell batteries would require third-party testing to the new requirements. 15 U.S.C. 2063(a)(3).⁵⁵ Accordingly, to provide time to comply with the rule, to ensure adequate lab capacity to test and certify toys, and to spread the cost of compliance over approximately six months, the Commission proposes to make this rule effective 180 days after publication of the final rule in the **Federal Register**.

Although the NPR proposes to add performance requirements, 180 days should be sufficient to come into compliance, because battery-operated toys already must satisfy third party testing, and because the proposed new test methods and test equipment are consistent with the testing required in part 1263, incorporating ANSI/UL 4200A–23, which utilizes similar methods and equipment. For example, currently 142 third party laboratories are CPSC-accepted to test to part 1250’s requirements for battery-operated toys, and 35 labs are CPSC-accepted to test to part 1263. Accordingly, CPSC expects that these laboratories are competent to conduct the required testing and can have their ISO accreditation and CPSC-acceptance updated in the normal course. The Commission invites comments, particularly from small businesses, regarding the proposed testing and the amount of time needed to come into compliance with a final rule.

VIII. Regulatory Flexibility Act (RFA)

The RFA requires agencies to review each proposed rule’s potential economic impact on small entities, including small businesses. Section 603 of the RFA generally requires that agencies prepare an initial regulatory flexibility analysis (IRFA) and make the analysis available to the public for comment when the agency publishes an NPR, unless the rule would not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 603, 605(b).

If the proposed rule is finalized, CPSC staff does not expect a significant impact to a substantial number of small businesses. Small manufacturers may incur a one-time redesign cost and ongoing component costs (i.e., screws and threads) to comply with the rule for product lines that currently do not meet

the proposed requirements. However, CPSC does not expect small firms to incur a cost that exceeds 1 percent of the annual revenue of the firm (nor 1 percent of the retail price of the product). Therefore, the Commission certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

A. Reason for Agency Action, NPR Objectives, Product Description, and Market Description

Section I of this preamble explains why CPSC proposes to establish mandatory requirements for toys containing button cell or coin cell batteries to prevent access to battery compartments by children aged 6 years old and younger and provides a statement of the objectives of, and legal basis for, the proposed rule. Section II of this preamble describes the types of products within the scope of the NPR, the market for button cell and coin cell batteries in toys, and the use of such batteries in toys in the U.S. The requirements in the NPR are more stringent than ASTM F963–23, which was incorporated into the mandatory rule 16 CFR part 1250, as described in sections IV and V of this preamble. The NPR addresses the known ingestion hazard, discussed in section III of this preamble, that the current rule does not adequately address.

B. Small Entities to Which the Rule Would Apply

Section II of this preamble describes the products within the scope of the rulemaking and provides an overview of the market for toys containing button cell or coin cell batteries. This section of the preamble provides additional details on the market for products within the scope of the rulemaking.

The North American Industry Classification System (NAICS)⁵⁶ defines product codes for U.S. firms. Firms that manufacture button cell or coin cell battery-powered children’s toys may list their businesses under various NAICS product codes, as these toys include a variety of children’s products, such as dolls and musical instruments. Most of these firms likely fall under NAICS code 339930 Doll, Toy, and Game Manufacturing, but some may also fall under code 339992 Musical Instrument

⁵⁴ 2023 US Toy Industry Sales Analysis—Circana. <https://www.circana.com/intelligence/press-releases/2024/us-toy-industry-sales-decline-8-in-2023-while-remaining-5-7-billion-above-2019-sales-circana-reports/>.

⁵⁵ Section 14(a)(3) specifies laboratories must have at least 90 days to test for compliance.

⁵⁶ The NAICS is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. For more information, see <https://www.census.gov/naics/>. Some programs use 6-digit NAICS codes, which provide more specific information than programs that use more general 3- or 4-digit NAICS codes.

Manufacturing or 339999, All Other Miscellaneous Manufacturing. Importers of battery-operated toys containing button cell or coin cell batteries also fall under multiple NAICS codes, with a majority of the firms following under NAICS codes as wholesalers: 423920 Toy and Hobby Goods and Supplies Merchant Wholesalers, 423910 Sporting and Recreational Goods and Supplies Merchant Wholesalers, and 423990 Other Miscellaneous Durable Goods Merchant Wholesalers.

Retailers of toys containing button cell or coin cell batteries similarly include a variety of retailer types, from large “big box” retailers to smaller specialized product firms. CPSC staff

estimates that a majority of these products fall under NAICS codes 459120 Hobby, Toy, and Game Stores, 451110 Sporting Goods Stores, 459140 Musical Instrument and Supplies Stores, 455110 Department Stores, and 455211 Warehouse Clubs and Supercenters. Some of these products may also be sold in stores coded as 445110 Grocery Stores, 445121 Convenience Stores, and 443142 Electronic Stores, among other outlets; however, CPSC expects the number of such toys sold at these stores to be negligible.

Under U.S. Small Business Administration (SBA) guidelines, a manufacturer, importer, and retailer of

toys containing button cell or coin cell batteries is categorized as “small” based on the SBA’s size thresholds associated with each NAICS code. SBA uses the number of employees to determine whether a manufacturer or importer is a small entity, while SBA uses annual revenues to consider a retailer. Based on the U.S. Census Bureau’s 2021 and 2017 Statistics of U.S. Businesses (SUSB) data, CPSC staff estimated the number of firms classified as small for the most relevant NAICS codes. Tables 4 and 5 provide the estimated number of small firms by each NAICS code.⁵⁷ Staff estimates a total of 18,968 small manufacturers and importers, and 28,619 small retailers.

TABLE 4—ESTIMATED NUMBER OF SMALL MANUFACTURERS AND IMPORTERS

NAICS code	Description	SBA size standard for firms (No. of employees)	Number of firms that meet size standard (based on SUSB data)
339930	Doll, Toy, and Game Manufacturing	700	485
339992	Musical Instrument Manufacturing	1000	587
339999	All Other Miscellaneous Manufacturing	550	2,951
423920	Toy and Hobby Goods and Supplies Merchant Wholesalers	175	1,846
423910	Sporting and Recreational Goods and Supplies Merchant Whole-salers.	100	4,432
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	100	8,567

TABLE 5—ESTIMATED NUMBER OF SMALL RETAILERS

NAICS code	Description	SBA size standard for firms (annual revenue) millions \$	Number of firms that meet size standard (based on SUSB data)
452210	Department Stores	\$40.0	15
452310	General Merchandise Stores, Including Warehouse Clubs and Super-centers.	47.0	8,006
451110	Sporting Goods Retailers	26.5	13,751
451120	Hobby, Toy, and Game Stores	35.0	4,660
451140	Musical Instrument and Supplies Stores	22.5	2,187

C. Compliance Requirements of the NPR, Including Reporting and Recordkeeping Requirements

The NPR would improve the performance and labeling requirements applicable to toys containing button cell or coin cell batteries. Under section 14 of the CPSA, manufacturers, importers, and private labelers of toys containing button cell or coin cell batteries would be required to certify, based on testing by an ISO-accredited, CPSC-accepted third party conformity assessment body, that their toy complies with the requirements of the proposed rule. Each certificate of compliance must identify the third-party conformity assessment

⁵⁷ Some discrepancies exist between the published SBA size standard NAICS code and the SUSB code. Staff used the code description to match the size standard to the correct value.

body on whose testing the certificate depends. The certificate must be legible and in English and include the date and place of manufacture, the date and place where the product was tested, including the full mailing address and telephone number for each party, and the contact information for the person responsible for maintaining records of the test results. The certificates may be in electronic format and must be provided to each distributor or retailer of the product. Upon request, the certificates must be provided to CPSC and/or U.S. Customs and Border Protection. 15 U.S.C. 2063(a) and (g); 16 CFR part 1110.

Retailer size determination is made using 2017 SUSB data by applying the ratio of firms that meet the standard to the 2021 data values.

D. Costs of NPR That Would Be Incurred by Small Manufacturers

Toys containing button cell or coin cell batteries may require minor redesign to comply with the proposed rule. CPSC anticipates one likely method of redesign is to replace plastic screw thread inserts with metal inserts to strengthen fastener attachment and prevent easy stripping of screws. The potential costs of this modification are the incremental cost to incorporate the screw thread insert and make that material change, and the one-time design changes to battery compartments.⁵⁸

⁵⁸ Re-tooling costs are not expected from the changes in the draft proposed rule.

CPSC estimates that the incremental costs to modify the screw thread are negligible (less than \$0.01) per product. CPSC estimates a range of one to two weeks of labor for an electrical engineer to redesign a toy battery compartment. Data from the Bureau of Labor Statistics (BLS) indicates that the average full hourly compensation rate of an electrical engineer, which includes wages⁵⁹ and benefits,⁶⁰ in the U.S. is \$84.87.⁶¹ Because battery compartment designs are very similar across product models and firms, CPSC assesses that firms would be able to incorporate the updated battery compartment designs across all children's products lines that the manufacturer offers without additional effort required for each product line. Considering this equates to a range of possible design costs of \$3,395 to \$6,791 per firm.⁶²

Some additional costs might be incurred related to updating and/or adding labels. Generally, the costs associated with modifying or adding warning labels are low on a per unit basis and all manufacturers of children's products are already required to provide warning labels with their product. Therefore, CPSC expects the incremental cost related to the labeling provision to be negligible.

Manufacturers would likely incur additional costs to certify that their toys containing button cell or coin cell batteries meet the rule, if finalized, as required by section 14 of the CPSA, 15 U.S.C. 2063. Certification of children's products must be completed by a CPSC-accepted, third party conformity assessment body (*i.e.*, third party laboratory). Based on quotes from testing laboratories for ASTM F963 mechanical services, the cost of the certification testing will range from \$130 to \$250 per product sample. Because toys containing button cell or coin cell batteries are already tested to part 1250, CPSC does not expect the additional testing proposed in this rule to materially increase the cost of third-party testing.

⁵⁹ The mean hourly wage of an electrical engineer is \$56.58 per hour as of May 2023 according to BLS, available at: <https://www.bls.gov/oes/current/oes172071.htm>.

⁶⁰ The ratio of full compensation to wages for someone in *Professional and related occupations* in the Manufacturing industry is 1.50 (\$68.94 compensation per hour ÷ \$46.02 wage per hour) as of March 2024. See table 4 at: <https://www.bls.gov/news.release/cec.t04.htm>.

⁶¹ \$84.87 per hour = \$56.58 wage per hour × 1.50 compensation factor.

⁶² Calculated as work hours in a week times compensation rate. (40 × \$84.87 = \$3,394.80 and 80 × \$84.87 = \$6,789.60).

E. Impact on Small Manufacturers

If the rule is finalized, small manufacturers would incur a one-time redesign cost and continuous component costs (*i.e.*, screws and threads) to comply with the rule for product lines that currently do not meet the proposed requirements. Retail prices for toys containing button cell or coin cell batteries vary greatly, with the least expensive toys costing approximately \$3. CPSC does not expect small firms to incur a cost that exceeds 1 percent of the annual revenue of the firm (nor 1 percent of the retail price of the product).

Generally, CPSC considers an impact to be potentially significant if it exceeds 1 percent of a firm's revenue. CPSC does not expect a potentially significant impact on small firms that manufacture toys containing button cell or coin cell batteries. CPSC does not expect that small businesses will incur costs that exceed 1 percent of their annual revenue. The high end of CPSC's cost estimate range is \$6,791. Any firm with annual revenues less than \$678,100 could potentially incur a significant impact, however, CPSC is unaware of any firms with revenues of this amount that have costs at the highest end of the cost estimate range. The Commission seeks comments from firms stating their annual revenue and estimated redesign and continuous component costs.

F. Alternatives for Reducing the Adverse Impact on Small Entities

CPSC considered three alternatives to the NPR that could reduce the impact on small entities: (1) not taking any action regarding toys containing button cell or coin cell batteries, (2) establishing an information and education campaign for these batteries, and (3) providing a later effective date. In addition, although the statute allows CPSC to provide "small batch" exemptions to testing requirements or alternative requirements for small providers of certain products, allowing no testing or alternate testing would undermine the Commission's effort to require battery accessibility testing in ASTM F963–23 the same as for non-toy consumer products. 15 U.S.C. 2063(d)(4).

1. No Action Alternative

Under this alternative the status quo would be maintained, and no firm would incur a rule-based cost. While not promulgating a mandatory standard for toys containing button cell or coin cell batteries would have no impact on U.S. small businesses, it would also allow hazardous products to remain on

the market and ignore a known ingestion hazard to children. Further, impact on small U.S. businesses if the Commission took no action would be limited because of the low cost for small businesses to comply with the rule.

Taking no action to address the risk of button cell or coin cell battery child ingestion by making the requirements for securing toy battery compartments more stringent, to ensure that they provide the highest level of safety feasible, would be inconsistent with the Commission's statutory mandate described in section I of this preamble. 15 U.S.C. 2056b(c) and (d). After preliminarily determining that the existing requirements in ASTM F–963 are inadequate to address the risk of potential ingestion, the Commission is moving forward with this rulemaking to comply with the statutory mandate and to prioritize the safety of children by mitigating potential child ingestions of button cell or coin cell batteries obtained from toys.

2. Information and Education Campaign

The Commission could create an information and education campaign to better alert parents and caregivers regarding the risks associated with children ingesting button cell or coin cell batteries. This would require consumer outreach efforts like advertising and marketing related to the hazards. This alternative could be implemented independent of any regulatory action. Although information campaigns may be helpful, standing alone they are inadequate to address the ingestion hazard associated with these batteries.

3. Later Effective Date

To reduce burden on small businesses, the Commission considered an effective date later than 180 days after **Federal Register** publication, to spread the cost of compliance over a longer period. Although many toys may already comply with the proposed requirements, some toys would need to be redesigned, and all toys containing button cell or coin cell batteries would require third-party testing to the new requirements. In this case, as described above, 180 days is reasonable for firms to comply with the rule, the cost of compliance is low, and many labs are already CPSC-accepted to conduct the same or similar testing. Providing a 180-day effective date is consistent with section 106(g) of the statute and addressing this known health hazard associated with children's toys.

IX. Environmental Consideration

The Commission’s regulations address whether the agency is required to prepare an environmental assessment or an environmental impact statement. Under these regulations, certain categories of CPSC actions normally have “little or no potential for affecting the human environment,” and therefore do not require an environmental assessment or an environmental impact statement. Safety standards providing performance and labeling requirements for consumer products come under this categorical exclusion. 16 CFR 1021.5(c)(1). The NPR falls within the categorical exclusion.

X. Paperwork Reduction Act (PRA)

This NPR for toys containing button cell or coin cell batteries contains information collection requirements that are subject to public comment and review by the Office of Information and Regulatory Affairs (OMB) under the Paperwork Reduction Act of 1995 (44

U.S.C. 3501–3521). Toys are children’s products. Accordingly, CPSC proposes to update the PRA estimate for toys containing button cell or coin cell batteries into a new control number, and then include this updated estimate in the Children’s Product OMB Control Number in the next update. In this document, pursuant to 44 U.S.C. 3507(a)(1)(D), we set forth:

- A title for the collection of information;
- A summary of the collection of information;
- A brief description of the need for the information and the proposed use of the information;
- A description of the likely respondents and proposed frequency of response to the collection of information;
- An estimate of the burden that shall result from the collection of information; and
- Notice that comments may be submitted to the OMB.

Title: Safety Standard for Toys: Requirements for Toys Containing Button Cell or Coin Cell Batteries.

Description: As described in section V of this preamble, the proposed rule would require each toy containing a button cell or coin cell battery to comply with the performance and labeling requirements in 16 CFR 1250.3. CPSC will seek a new OMB control number for this update. Sections 5, 6, and 7 of ASTM F963–23 contain requirements for marking, labeling, and instructional literature. These requirements fall within the definition of “collection of information,” as defined in 44 U.S.C. 3502(3).

Description of Respondents: Persons who manufacture or import toys containing one or more button cell or coin cell batteries, as defined in proposed § 1250.3(b).

Estimated Burden: We estimate the burden of this collection of information as follows:

TABLE 6—ESTIMATED ANNUAL REPORTING BURDEN

Burden type	Number of respondents	Frequency of response	Total annual responses	Hours per response	Total burden hours
Labeling and instructions	18,868	2	37,736	2	75,472

This estimate is based on the following: CPSC estimates that 18,868 respondents would provide labeling and instructional literature annually, based on the number of identified small firms that manufacture or import toys containing cell or coin cell batteries. We exclude retailers from our estimate because we assume that labeling and instructional literature would be provided by manufacturers and importers, but not retailers. While the number of responses per respondent would vary, we estimate that on average, each respondent will respond twice annually for products that are updated and brought to market, for a total of 37,736 annual responses (18,868 respondents × 2 responses per year).

CPSC assumes that on average it will take 1 hour for each respondent to create the required label and one hour for them to create the required instructions, for an average response burden of 2 hours per response. Therefore, the total burden hours for the collection are estimated to be 75,472 hours annually (37,736 responses × 2 hours per response = 75,472 total burden hours).

We estimate the hourly compensation for the time required to create and update labeling and instructions is

\$41.55 (U.S. Bureau of Labor Statistics, “Employer Costs for Employee Compensation,” December 2023, table 4, total compensation for all sales and office workers in goods-producing private industries: <https://www.bls.gov/news.release/archives/ecec03132024.pdf>). Therefore, the estimated annual cost of the burden requirements is \$3,135,862 (\$41.55 per hour × 75,472 hours = \$3,135,861.60). No operating, maintenance, or capital costs are associated with the collection. Based on this analysis, the proposed revisions to the standard would impose a burden to industry of 75,472 hours at a cost of \$3,135,862 annually.

In compliance with the PRA (44 U.S.C. 3507(d)), we have submitted the information collection requirements of this rulemaking to the OMB for review. Interested persons are requested to submit comments regarding information collection by October 15, 2024, to the OMB (see the ADDRESSES section at the beginning of this document). Pursuant to 44 U.S.C. 3506(c)(2)(A), we invite comments on:

- Whether the collection of information is necessary for the proper performance of CPSC’s functions, including whether the information will have practical utility;

- The accuracy of CPSC’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, utility, and clarity of the information to be collected;
- Ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology; and
- The estimated burden hours associated with the update and modification of labels and instructions, including any alternative estimates.

XI. Preemption

Section 26(a) of the CPSA, 15 U.S.C. 2075(a), states that when a consumer product safety standard is in effect and applies to a product, no State or political subdivision of a State may either establish or continue in effect a standard or regulation that prescribes requirements for the performance, composition, contents, design, finish, construction, packaging, or labeling of such product dealing with the same risk of injury unless the State requirement is identical to the Federal standard. Section 106(f) of the CPSIA deems rules

issued under that provision “consumer product safety standards.” Therefore, once a rule issued under section 106 of the CPSIA takes effect, it will preempt in accordance with section 26(a) of the CPSA.

XII. Certification and Notice of Requirements

Section 14(a) of the CPSA imposes the requirement that products subject to a consumer product safety rule under the CPSA, or to a similar rule, ban, standard, or regulation under any other act enforced by the Commission, must be certified as complying with all applicable CPSC-enforced requirements. 15 U.S.C. 2063(a). Section 14(a)(2) of the CPSA requires that certification of children’s products subject to a children’s product safety rule be based on testing conducted by a CPSC-accepted third party conformity assessment body. Section 14(a)(3) of the CPSA requires the Commission to publish an NOR for the accreditation of third-party conformity assessment bodies (or laboratories) to assess conformity with a children’s product safety rule to which a children’s product is subject. The proposed rule for 16 CFR 1250.3, Requirements for Toys Containing Button Cell or Coin Cell Batteries, if issued as a final rule, would be a children’s product safety rule that requires the issuance of an NOR.

Title 16, part 1112 of the CFR establishes requirements for accreditation of third-party conformity assessment bodies to test for conformity with a children’s product safety rule in accordance with section 14(a)(2) of the CPSA. Part 1112 also codifies all of the NORs issued previously by the Commission. To meet the requirement that the Commission issue an NOR for the proposed standard, the Commission proposes as part of the NPR to add § 1250.3, Requirements for Toys Containing Button Cell or Coin Cell Batteries, to the list of children’s product safety rules for which CPSC has issued an NOR.

Testing laboratories applying for acceptance as a CPSC-accepted third party conformity assessment body to test to the new standard for button cell and coin cell batteries in toys would be required to meet the third-party conformity assessment body accreditation requirements in part 1112. When a laboratory meets the requirements as a CPSC-accepted third party conformity assessment body, the laboratory can apply to CPSC to have 16 CFR 1250.3, Requirements for Toys Containing Button Cell or Coin Cell Batteries, included within the laboratory’s scope of accreditation listed

for the laboratory on the CPSC website at: <https://www.cpsc.gov/cgi-bin/labsearch/>.

XIII. Request for Comments

The Commission requests comments on all aspects of this NPR, including the effective date. Submit comments in accordance with the instructions in the ADDRESSES section at the beginning of this document.

CPSC specifically requests comment on the following topics:

A. Proposed Performance Requirements for Toys Containing Button Cell or Coin Cell Batteries

1. Do the proposed performance requirements align with the requirements in part 1263? If not, what requirements should the Commission add or remove to align the two standards?

2. Are the proposed performance requirements adequate to address the risk of ingestion and insertion from children accessing button cell or coin batteries from toys? Please provide details of any additional requirements proposed.

3. Are there any toys weighing over 10 lbs. and up to 39.7 lbs., that would not be considered large and bulky (as defined in ASTM F963–23), and should a separate drop test for such toys be included?

B. Proposed Warning Label Requirements for Toys Containing Button Cell or Coin Cell Batteries

1. Are the proposed warnings adequate to address the hazards associated with toys containing button cell or coin cell batteries?

2. Should CPSC consider additional warnings on toy packaging, on toys, or on instructional literature accompanying toys?

3. Should CPSC consider other warning formats?

C. Regulatory Flexibility Analysis

1. *Significant impact.* Is CPSC’s estimated cost of redesign to achieve compliance appropriate? If not, please provide additional information and support for your proposed correction. Also, do the estimated costs represent more than one percent of annual revenue for individual small U.S. manufacturers and importers?

2. *Testing costs.* Will third party testing costs for toys containing button cell or coin cell batteries increase as a result of the requirements in this NPR, and if so, by how much?

3. *Effective date of 180 days after Federal Register publication.* How much time is required to come into

compliance with a final rule (including product compliance and third-party testing)? Please provide supporting data with your comment supporting a 180-day period or other effective date, particularly for small businesses.

4. *Alternatives to reduce the impact on small businesses.* Are there any alternatives to the rule not discussed in this NPR that could reduce the impact on small businesses without reducing safety? Please provide supporting data with your comment, particularly addressing small businesses.

D. Feasibility

1. Are the proposed requirements in this NPR feasible, both technically and economically?

2. What would be the total cost to industry of implementing this rule? Please be specific about labor and/or materials costs to redesign products, and costs of third-party testing.

3. Will complying with this rule increase the costs of production or the retail price of toys containing button cell or coin cell batteries? Why? By how much?

List of Subjects

16 CFR Part 1112

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

16 CFR Part 1250

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

For the reasons discussed in the preamble, the Commission proposes to amend 16 CFR parts 1112 and 1250 as follows:

PART 1112—REQUIREMENTS PERTAINING TO THIRD PARTY CONFORMITY ASSESSMENT BODIES

■ 1. The authority citation for part 1112 continues to read as follows:

Authority: 15 U.S.C. 2063.

■ 2. Amend § 1112.15 by adding paragraph (b)(32)(ii)(LL) to read as follows:

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

* * * * *

(b) * * *

(32) * * *.

(ii) * * *

(LL) 16 CFR 1250.3, Requirements for Toys Containing Button Cell or Coin Cell Batteries.

* * * * *

PART 1250—SAFETY STANDARD FOR TOYS

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

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

■ 5. Revise the heading to part 1250 to read as set forth above.

■ 6. Revise § 1250.1 to read as follows:

§ 1250.1 Scope.

This part establishes a consumer product safety standard for toys.

■ 7. Add § 1250.3 to read as follows:

§ 1250.3 Requirements for toys containing button cell or coin cell batteries.

(a) *Scope and purpose.* This section establishes additional performance and labeling requirements for toys containing button cell or coin cell batteries to prevent child access to such batteries during reasonably foreseeable use and abuse of battery-operated toys. This section is intended to eliminate or adequately reduce the risk of injury or death to children 6 years old and younger from ingesting button cell or coin cell batteries accessed from toy battery compartments.

(b) *Definitions.* In addition to the definitions incorporated by reference in § 1250.2(a), the following definitions apply for purposes of this section:

Product display panel means the surface area on, near, or in the battery component of the toy using or containing button or coin cell batteries that is visible while replacing the batteries.

Secondary display panel means the side opposite or next to the principal display panel of the retail package of a toy using or containing button or coin cell batteries.

Toy(s) containing button cell or coin cell battery(ies) means a toy or toys containing or designed to use one or more button cell or coin cell batteries, regardless of whether such batteries are intended to be replaced by the

consumer or are included with the product or sold separately.

(c) *Performance and labeling requirements.* Each toy containing button cell or coin cell batteries must comply with applicable provisions of the version of ASTM F963 incorporated by reference in § 1250.2(a), with the following additions and exclusions to that ASTM standard:

(1) Add the following sentence to the end of section 4.25.4.3: “Confirm compliance after testing by opening the battery door or cover and applying a force of at least 4.5 lbf (20 N) to the fastener evenly within 5 s and maintained for an additional duration of 10 s in any direction likely to remove the fastener.”

(2) Add the following paragraphs to section 4.25.4:

(i) 4.25.4.5 For all toys with battery compartments using replaceable button cell or coin cell batteries secured by a screw or similar fastener, a minimum of two full rotations of the screw or fastener shall be required to open or remove the battery compartment, door, or cover.

(ii) 4.25.4.6 For all toys with battery compartments using replaceable button cell batteries or coin cell batteries secured by a rotating or twist-on access cover, a minimum torque of 4.4 in-lbf (0.5 Nm) shall be required to unlock the cover, and a minimum angle of 90 degrees of rotation shall be required to remove the cover.

(iii) 4.25.4.7 All toys containing button cell or coin cell batteries shall be tested in accordance with section 8.31.

(3) Instead of complying with section 5.14.2, comply with the following:

(i) 5.14.2 *Button Cell or Coin Cell Batteries.*

(ii) 5.14.2.1 For each toy containing button cell or coin cell batteries, each toy, toy packaging, and toy instructions shall meet the requirements in 16 CFR 1263.3, Packaging Markings, Product Markings, and General Instructions.

(4) Add the following paragraphs as section 8.31.

(i) 8.31 *Button Cell or Coin Cell Battery Use and Abuse Testing*—All

testing in this section shall be performed in series on each unique toy or toy component containing button cell or coin cell batteries. Manufacturer recommended batteries shall be in place during the testing unless otherwise specified. No button cell or coin cell batteries shall become accessible without the use of a tool as a result of testing.

(ii) 8.31.1 *Stress Relief Test*—Subject all toys with a battery compartment that utilizes molded or formed thermoplastic materials to this test. The sample shall consist of either the entire toy or toy component, or for large and bulky toys or toy components, at least the complete battery compartment enclosure together with any supporting framework. Batteries may be removed during this test.

(A) Place the sample in a circulating air oven for a period of 7 hours. Set the oven temperature to the higher of:

(1) 70 °C; or

(2) 10 °C higher than the maximum temperature of thermoplastic enclosures, battery compartment door/covers, or battery compartment door/cover mechanisms, during the most stringent normal operation of the sample.

(B) After removal from the oven, permit the sample to cool to room temperature.

(iii) 8.31.2 *Battery Replacement Test*—Subject all toys or toy components containing replaceable button cell or coin cell batteries to this test.

(A) The battery compartment door/cover shall be opened, the battery removed and replaced, and the battery compartment door/cover shall be closed, for a total of ten cycles. The test procedure shall simulate battery replacement according to the manufacturer's instructions.

(B) If the battery compartment is secured with a screw(s), loosen and then tighten the screw(s) by means of a suitable screwdriver, applying a continuous linear torque according to table 1.

TABLE 1 TO PARAGRAPH (c)(4)(iii)(B)—TORQUE TO BE APPLIED TO SCREWS ¹

Nominal diameter of screw mm	Torque Nm		
	I	II	III
Up to and including 2.8	0.2	0.4	0.4
Over 2.8 up to and including 3.0	0.25	0.5	0.5
Over 3.0 up to and including 3.2	0.3	0.6	0.6
Over 3.2 up to and including 3.6	0.4	0.8	0.6
Over 3.6 up to and including 4.1	0.7	1.2	0.6
Over 4.1 up to and including 4.7	0.8	1.8	0.9
Over 4.7 up to and including 5.3	0.8	2.0	1.0

TABLE 1 TO PARAGRAPH (c)(4)(iii)(B)—TORQUE TO BE APPLIED TO SCREWS ¹—Continued

Nominal diameter of screw mm	Torque Nm		
	I	II	III
Over 5.3 up to and including 6.0		2.5	1.25

I—For metal screws without heads, if the screw, when tightened, does not protrude from the hole.

II—For other metal screws and for nuts.

III—For screws of insulating material:

- Having a hexagonal head with the dimension across flats exceeding the overall thread diameter, or
- With a cylindrical head and a socket for a key, the socket having a dimension across flats not less than 0.83 times the overall thread diameter, or
- With a head having a slot or cross slots, the length of which exceeds 1.5 times the overall thread diameter.

III—For other screws of insulating material.

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(iv) 8.31.3 *Drop Test.*

—(A) Except for large and bulky toys, toys intended for children aged 0 to 18 months that weigh less than 10.01 lbs. (4.5 kg) shall be dropped at least 4.5 ft (137 cm) onto the test surface specified in section 8.7.1 in positions likely to produce maximum force on the battery enclosure or compartment.

(B) Toys intended for children aged over 18 months that weigh less than 10.01 lbs. (4.5 kg) shall be dropped 10 times from a height of at least 3.0 ft (91 cm) onto the test surface specified in section 8.7.1 in positions likely to produce maximum force on the battery enclosure or compartment.

(C) Regardless of the intended child age, all toys that weigh at least 10.01 lbs. (4.5 kg) up to 39.7 lbs. (18 kg), shall be dropped three times from a height of at least 3.0 ft (91 cm) onto the test surface specified in section 8.7.1 in the positions likely to produce maximum force on the battery enclosure or compartment.

(v) 8.31.3.1 *Tipover Test*—Large and bulky toys shall not be subject to the drop test in section 8.31.3, instead subject such toys to the *Tipover Test for Large, Bulky Toys* in accordance with the procedure in section 8.7.2.1.

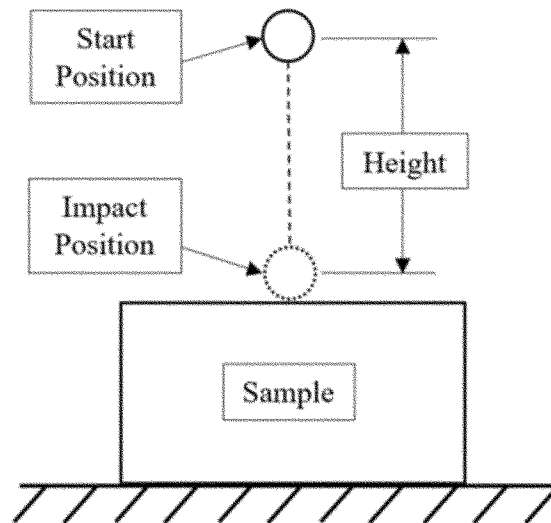
(vi) 8.31.4 *Impact Test.*

(A) Subject the battery enclosure or compartment door/cover to three, 1.5-

ft-lbf (2-J) impacts. Produce the impact by dropping a steel sphere, 2.00 in (50.8 mm) in diameter, and weighing approximately 1.1 lbs. (0.5 kg), from the height required to produce the specified impact, as shown in figure 50, or the steel sphere is to be suspended by a cord and swung as a pendulum, dropping through the vertical distance required to cause it to strike the surface with the specified impact as shown in figure 51. The steel sphere is to strike the battery enclosure or compartment door/cover perpendicular to the enclosure surface.

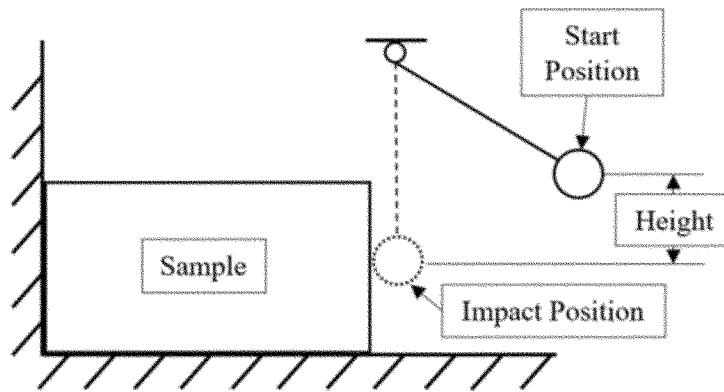
(B) Add figure 50 to section 8.31.4:

Figure 50. Example Impact Test With a Dropped Steel Sphere



(C) Add figure 51 to section 8.31.4:

Figure 51. Example Impact Test With a Swinging Steel Sphere



(vii) 8.31.5 *Crush Test*—Support the sample by a fixed rigid supporting surface in positions likely to produce the most adverse results, so long as the position can be self-supported. Apply a crushing force of 74.2 lbf $\pm$ 1.1 lbf (330 N $\pm$ 5 N) for a period of 10 s to the exposed surfaces. Apply the force using a flat surface measuring approximately 3.9 in by 9.8 in (100 mm by 250 mm).

(viii) 8.31.67 *Torque Test*—If a child can grasp any part of the battery compartment enclosure on a toy or toy component, including the door or cover, with at least the thumb and forefinger, or using teeth, apply the *Torque Test for Removal of Components* in section 8.8 to the battery compartment enclosure, using a torque of at least 4.4 in-lbf (0.50 Nm).

(ix) 8.31.7 *Tension Test*—If a child can grasp any part of the battery compartment enclosure on a toy or toy component, including the door or cover, with at least the thumb and forefinger, or using teeth, apply the *Tension Test for Removal of Components* from section 8.9 to the battery compartment enclosure, using a force of at least 16.2 lbf (72.0 N).

(x) 8.31.8 *Compression Test*—If any surface of the battery compartment enclosure is accessible to a child and inaccessible to a flat surface contact during the *Drop Test* in section 8.7.1, apply the *Compression Test* from section 8.10 to the surface of the battery compartment enclosure, using a force of at least 30.5 lbf (135.7 N).

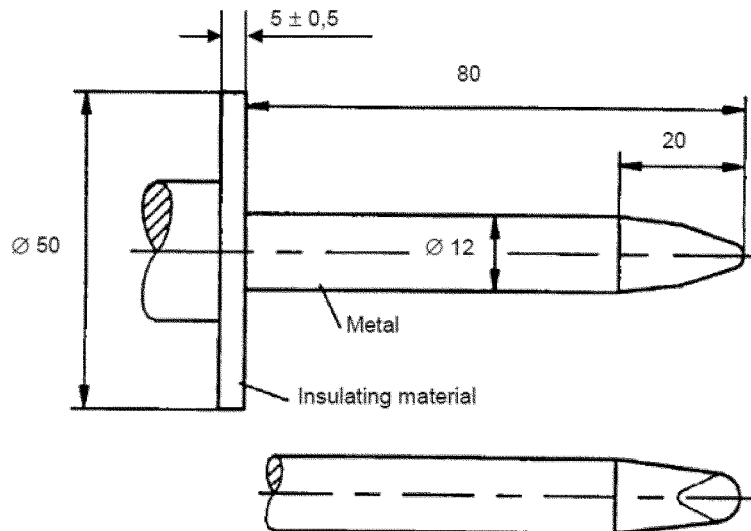
(xi) 8.31.9 *Compliance*.

(A) Apply a force of 11.2 lbf + 2.2/−0 lbf (50 + 10/−0 N) for 10 s to the battery compartment door/cover or enclosure with a rigid test finger probe, Test Probe 11 of IEC 61032, *Standard for Protection of Persons and Equipment by Enclosures—Probes for Verification* (figure 52). Apply the probe at the most unfavorable place and in the most unfavorable direction. Apply force in only one direction.

(B) To pass, the battery compartment door/cover shall not open and shall remain functional, and the battery shall not be touched by the probe or made accessible.

(C) Add figure 52 to section 8.31.9.

Figure 52—Test Probe 11¹



Dimensions in millimetres

For dimensions of the fingertip and tolerances: see Test Probe B.

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DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

[Docket No. FWS-R8-ES-2024-0018;
FXES1111090FEDR-245-FF09E21000]

RIN 1018-BH39

Endangered and Threatened Wildlife and Plants; Threatened Species Status With Section 4(d) Rule for the Santa Ana Speckled Dace

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the Santa Ana speckled dace (*Rhinichthys gabrielino*), a fish species native to California, as a threatened species under the Endangered Species Act of 1973, as amended (Act). This determination also serves as our 12-month finding on a petition to list the Santa Ana speckled dace. After a review of the best available scientific and commercial information, we find that listing the species is warranted. Accordingly, we propose to list the Santa Ana speckled dace as a threatened species with protective regulations issued under section 4(d) of the Act (“4(d) rule”). If we finalize this rule as proposed, it would add this species to the List of Endangered and Threatened Wildlife and extend the Act’s protections to the species. Due to the current lack of data sufficient to perform required analyses, we conclude that the designation of critical habitat for the species is not determinable at this time.

DATES: We will accept comments received or postmarked on or before October 15, 2024. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date. We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by September 27, 2024.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <https://www.regulations.gov>. In the Search box, enter FWS-R8-ES-2024-0018, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may

submit a comment by clicking on “Comment.”

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS-R8-ES-2024-0018, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041-3803.

We request that you send comments only by the methods described above. We will post all comments on <https://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: Supporting materials, such as the species status assessment report, are available at <https://www.regulations.gov> under Docket No. FWS-R8-ES-2024-0018.

FOR FURTHER INFORMATION CONTACT:

Scott Sobiech, Field Supervisor, Carlsbad Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2177 Salk Avenue, Carlsbad CA 92008; telephone 760-431-9440. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. Please see Docket No. FWS-R8-ES-2024-0018 on <https://www.regulations.gov> for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:**Executive Summary**

Why we need to publish a rule. Under the Act (16 U.S.C. 1531 *et seq.*), a species warrants listing if it meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range) or a threatened species (likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range). If we determine that a species warrants listing, we must list the species promptly and designate the species’ critical habitat to the maximum extent prudent and determinable. We have determined that the Santa Ana speckled dace meets the Act’s definition of a threatened species; therefore, we are proposing to list it as such. Listing a species as an endangered or threatened species can be completed only by issuing a rule through the Administrative Procedure Act

rulemaking process (5 U.S.C. 551 *et seq.*).

What this document does. We propose to list the Santa Ana speckled dace as a threatened species with protective regulations issued under section 4(d) of the Act.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that the Santa Ana speckled dace is threatened due to the following threats: habitat loss (due to urban development), habitat degradation (roadways, recreational activities, mining activities, and hydrological modifications and diversions), habitat fragmentation, increased fire frequency and intensity, climate change effects (*e.g.*, warmer air temperatures, more intense precipitation events including drought and flooding), nonnative species (invasive aquatic species predation and competition), and small population effects (*e.g.*, inbreeding depression and loss of genetic diversity).

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary), to the maximum extent prudent and determinable, concurrently with listing designate critical habitat for the species. We have not yet been able to obtain the necessary economic information needed to develop a proposed critical habitat designation for the Santa Ana speckled dace, although we are in the process of obtaining this information. At this time, we find that designation of critical habitat for the Santa Ana speckled dace is not determinable. When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) The species' biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns and the locations of any additional populations of this species;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Threats and conservation actions affecting the species, including:

(a) Factors that may be affecting the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors;

(b) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species; and

(c) Existing regulations or conservation actions that may be addressing threats to this species.

(3) Additional information concerning the historical and current status of this species.

(4) Information to assist with applying or issuing protective regulations under section 4(d) of the Act that may be necessary and advisable to provide for the conservation of the Santa Ana speckled dace. In particular, we seek information concerning the extent to which we should include any of the section 9 prohibitions in the 4(d) rule or whether we should consider any additional exceptions from the prohibitions in the 4(d) rule.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made solely on the basis of the best scientific and commercial data available.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in

ADDRESSES. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via <https://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <https://www.regulations.gov>.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on <https://www.regulations.gov>.

Our final determination may differ from this proposal because we will consider all comments we receive during the comment period as well as any information that may become available after this proposal. Based on the new information we receive (and, if relevant, any comments on that new information), we may conclude that the species is endangered instead of threatened, or we may conclude that the species does not warrant listing as either an endangered species or a threatened species. In addition, we may change the parameters of the prohibitions or the exceptions to those prohibitions in the protective regulations under section 4(d) of the Act if we conclude it is appropriate in light of comments and new information received. For example, we may expand the prohibitions if we conclude that the protective regulation as a whole, including those additional prohibitions, is necessary and advisable to provide for the conservation of the species. Conversely, we may establish additional exceptions to the prohibitions in the final rule if we conclude that the activities would facilitate or are compatible with the conservation and recovery of the species. In our final rule, we will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from this proposal.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain

reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. We may hold the public hearing in person or virtually via webinar. We will announce any public hearing on our website, in addition to the **Federal Register**. The use of virtual public hearings is consistent with our regulations at 50 CFR 424.16(c)(3).

Previous Federal Actions

On May 11, 2020, we received a petition from the Center for Biological Diversity requesting that the Santa Ana speckled dace be listed as an endangered or threatened species and critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at 50 CFR 424.14(c). On June 17, 2021, we published in the **Federal Register** (86 FR 32241) a 90-day finding that the petition presented substantial scientific or commercial information indicating the petitioned action may be warranted.

Peer Review

A species status assessment (SSA) team prepared an SSA report for the Santa Ana speckled dace (Service 2023a, entire). The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing and recovery actions under the Act, we solicited independent scientific review of the information contained in the Santa Ana speckled dace SSA report. We sent the SSA report to five independent peer reviewers and received one response. Results of this structured peer review process can be found at <https://www.regulations.gov>. In preparing this proposed rule, we incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this proposed rule.

Summary of Peer Reviewer Comments

As discussed above in Peer Review, we received comments from one peer reviewer. We reviewed all comments for substantive issues and new information regarding the material contained in the

SSA report. The reviewer generally provided additional references, clarifications, and suggestions for the SSA report. We updated the SSA report based on the information we received and worked with researchers to update the current and future condition analyses. The substantive peer reviewer comment is addressed in the following summary, and the information provided was incorporated into the SSA report as appropriate (Service 2023a, entire).

Comment 1: The reviewer commented on debris flows and provided clarifying language when describing the cause, stating debris flows are caused by intense rainfall, not by existing surface water already flowing in a channel. The reviewer also clarified how fire increases the magnitude of debris flows, indirectly impacting dace. They also noted that while debris flows are more common in the winter, summertime debris flows have been documented in the Santa Ana Mountains.

Our Response: We clarified language in the SSA report to reflect more accurately the cause of debris flows and the indirect impact fire has on daces with regard to debris flows. Flooding events are not necessarily the cause of debris flows. Instead, intense precipitation events cause debris flows that may also result in flooding. Language in the SSA report was also revised to reflect the possibility of debris flows occurring outside of winter when larger rainfall events are expected. We recognize that while wildfires do not cause debris flows, they increase the likelihood of a debris flow.

I. Proposed Listing Determination

Background

A thorough review of the taxonomy, life history, and ecology of the Santa Ana speckled dace is presented in the SSA report (Service 2023a, pp. 6–8).

The Santa Ana speckled dace is a small freshwater fish that occupies cool headwaters of perennial streams and rivers in the mountains north and east of Los Angeles, California. The species was historically found throughout river systems at the bases of the San Gabriel, San Bernardino, and San Jacinto Mountain ranges in Los Angeles, San Bernardino, and Riverside Counties, California. For a map of the species' range, see Docket No. FWS–R8–ES–2024–0018 on <https://www.regulations.gov>.

Several speckled dace species occur throughout California. At the time of our petition finding, we stated that a formal taxonomic description at the species rank or subspecies rank had not been prepared and had not passed scientific

peer review, either as part of acceptance for publication or through some other equivalent review. We therefore determined that the Santa Ana speckled dace was not listable as a taxonomically described species. The Santa Ana speckled dace has since been described as genetically distinguishable from other speckled dace species (Su et al. 2022, entire, Moyle et al. (2023, entire). Therefore, in this proposed rule we are analyzing the Santa Ana speckled dace at the species rank.

The Santa Ana speckled dace has an olive to darkish yellow body, with the stomach area paler in color. During the breeding season, both males and females have orange- or red-tipped fins, with males also having red snouts and lips. This small-scaled fish has a small downfacing mouth and a pointed snout with a small barbel on each end of the maxilla. A small patch of skin connects the snout to the upper lip. The speckled dace's subterminal mouth and tooth structure are ideal for consuming the small aquatic invertebrates most common in riffles (hydrarchid caddisflies, baetid mayflies, and chironomid and simuliid midges), which generally make up the bulk of the speckled dace's diet (Moyle et al. 2015, p. 2). The speckled dace also consumes filamentous algae (Moyle et al. 2015, p. 2).

The Santa Ana speckled dace's lifespan is coarsely correlated with maximum size, with dace under 80 millimeters (mm) fork length (FL) (the typical size of a Santa Ana speckled dace) living for roughly 3 years. Dace in the upper reaches of the San Gabriel River drainage commonly reach more than 110 mm (4.3 inches (in)) standard length (SL); in other locations, dace this large can live up to 6 years (Moyle et al. 2015, p. 3). Daces grow to 20 to 30 mm (0.79 to 1.2 in) SL by the end of their first summer and grow each subsequent year by an average of 10 to 15 mm (0.4 to 0.6 in) SL. Typically females grow faster than males. Under stressful environmental conditions, limited food, or high population densities, growth rates can decrease. Santa Ana speckled daces reach sexual maturity by the end of the second summer; based on size and location, females generate between 190 and 800 eggs (Moyle et al. 2015, p. 3). High flow events and/or rising water temperatures are normally correlated with dace spawning, making March through May the presumed spawning period for the Santa Ana speckled dace.

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in title 50 of the Code of Federal Regulations set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered and threatened species. On April 5, 2024, jointly with the National Marine Fisheries Service, we issued a final rule that revised the regulations in 50 CFR part 424 regarding how we add, remove, and reclassify endangered and threatened species and what criteria we apply when designating listed species' critical habitat (89 FR 24300). On the same day, we published a final rule revising our protections for endangered species and threatened species at 50 CFR 17 (89 FR 23919). These final rules are now in effect and are incorporated into the current regulations.

The Act defines an “endangered species” as a species that is in danger of extinction throughout all or a significant portion of its range, and a “threatened species” as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following factors:

- (A) The present or threatened destruction, modification, or curtailment of its habitat or range;
- (B) Overutilization for commercial, recreational, scientific, or educational purposes;
- (C) Disease or predation;
- (D) The inadequacy of existing regulatory mechanisms; or
- (E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term “threat” to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term “threat” includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals

through alteration of their habitat or required resources (stressors). The term “threat” may encompass—either together or separately—the source of the action or condition or the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an “endangered species” or a “threatened species.” In determining whether a species meets either definition, we must evaluate all identified threats by considering the species’ expected response and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the definition of an “endangered species” or a “threatened species” only after conducting this cumulative analysis and describing the expected effect on the species.

The Act does not define the term “foreseeable future,” which appears in the statutory definition of “threatened species.” Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis, which is further described in the 2009 Memorandum Opinion on the foreseeable future from the Department of the Interior, Office of the Solicitor (M–37021, January 16, 2009; “M–Opinion,” available online at <https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37021.pdf>). The foreseeable future extends as far into the future as the U.S. Fish and Wildlife Service and National Marine Fisheries Service (hereafter, the Services) can make reasonably reliable predictions about the threats to the species and the species’ responses to those threats. We need not identify the foreseeable future in terms of a specific period of time. We will describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species’ life-history characteristics, threat projection timeframes, and environmental variability. In other words, the foreseeable future is the period of time over which we can make reasonably

reliable predictions. “Reliable” does not mean “certain”; it means sufficient to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent our decision on whether the species should be proposed for listing as an endangered or threatened species under the Act. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies.

To assess the Santa Ana speckled dace’s viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency is the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years); redundancy is the ability of the species to withstand catastrophic events (for example, droughts, large pollution events); and representation is the ability of the species to adapt to both near-term and long-term changes in its physical and biological environment (for example, climate conditions, pathogens). In general, species viability will increase with increases in resiliency, redundancy, and representation (Smith et al. 2017, p. 306). Using these principles, we identified the species’ ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species’ viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated the individual species’ life-history needs. The next stage involved an assessment of the historical and current condition of the species’ demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species’ responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over

time which we then used to inform our regulatory decision.

The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket No. FWS–R8–ES–2024–0018 on <https://www.regulations.gov>.

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species’ current and future condition, in order to assess the species’ overall viability and the risks to that viability. We analyze these factors both individually and cumulatively to determine the current condition of the species and project the future condition of the species under both plausible future scenarios at mid- and late-century.

Species Needs

In order for the Santa Ana speckled dace to have high viability, the species needs to maintain its representation (adaptive capacity) by having multiple, sufficiently resilient populations (redundancy) in different watersheds. The amount of available habitat for the Santa Ana speckled dace is mainly driven by cold, flowing water in the streams throughout the watersheds that the species occupies. Having reaches of flowing water (as opposed to dry creek beds) that individuals can occupy and use to disperse to new areas in the watershed is important for population resiliency. The species inhabits a relatively small area, making adequate amounts of suitable habitat important for the resiliency of the species.

Individual needs for the Santa Ana speckled dace revolve around having consistent clean, cool water (estimated temperatures that stay below 28 degrees Celsius (°C) (82 degrees Fahrenheit (°F)) in the summer months) with access to aquatic invertebrates as a food source. Fertilized eggs and larvae utilize gravel substrate during development, and, later, larvae use rocks and emergent vegetation for cover. Adult Santa Ana speckled daces inhabit a variety of stream habitats, with a preference for moving water. Populations need abundant individuals within habitat patches of adequate area and quality to maintain survival and reproduction in spite of disturbance. For the Santa Ana speckled dace, this revolves around having adequate flows of cold water that connect the populations within each watershed. Having enough water in ephemeral creeks and limited fish barriers are important to allow dace within the population to disperse

throughout connected habitat and not become isolated. Santa Ana speckled dace population size varies greatly based on the annual conditions of the habitat, and populations will rebound when conditions are conducive to the species' needs. The amount of water is strongly correlated with the annual fluctuation in habitat conditions, with droughts correlated to lower dace numbers. Without enough cold water throughout the year to maintain connectivity, populations are more likely to become isolated and less resilient to the presence of ongoing threats.

Connectivity allows individuals to move among reaches in a watershed, for example, upstream and downstream without barriers impeding movement. Connectivity allows for movement of individuals in response to stressors such as high flow events or fire and allows for dispersal and gene flow among Santa Ana speckled dace occurrences, which maintains genetic diversity and increases population resiliency. Connectivity within a watershed becomes increasingly important as localized threats increase, forcing individuals to find more suitable habitat to survive.

Factors Influencing Species Viability

The following discussion provides a summary of the primary factors that affect or may affect the current and future conditions of the Santa Ana speckled dace. For our analysis, we evaluated impacts from the following threats to the species: (1) habitat loss (due to urban development); (2) habitat degradation (due to recreational activities, mining, roadways, and hydrological activities and diversions); (3) habitat fragmentation; (4) increased risk of wildfire (probability of fire and contributions to debris flows); (5) changing climate trends (e.g., increased debris flows from high wintertime precipitation events, increased temperatures, and longer, more frequent drought periods); (6) nonnative species (increased competition and predation); and (7) small population effects.

Habitat Loss

The lower portions of the San Gabriel, Santa Ana, and Los Angeles rivers that were part of the Santa Ana speckled dace's historical range no longer support the species because of habitat loss from extensive urbanization. The middle and lower reaches of these rivers have been channelized and impounded for flood control, and riparian corridors have been replaced with concrete-lined canals. Water quality has also been degraded and become unsuitable for

daces due to urbanization. For example, the lower reaches of the San Gabriel, Santa Ana, and Los Angeles rivers have highly unsuitable levels of pH, ammonia, lead, coliform, trash, scum algae, total dissolved solids, heavy metals, pathogens, bacteria, and nutrients (Moyle et al. 2015, p. 8). Habitat that is currently suitable for the Santa Ana speckled dace is restricted to headwater habitats that are not impacted by urbanization.

Habitat Degradation

Recreational Activities—Much of the remaining habitat occupied by the Santa Ana speckled dace is located in the Angeles and San Bernardino National Forests, which are some of the most heavily visited National Forests in the country. Impacts from recreation are an increasing threat for daces, particularly in the small waterways they inhabit. Recreational activities that directly impact daces and their habitat include swimming, off-highway vehicle (OHV) use, dam building, littering, camping, and recreational mining. These activities stress and displace fish. The artificial impoundments erected to create swimming and bathing areas impact water quality (including temperature and sedimentation) and fragment the habitat by limiting dispersal. OHV use directly disturbs waterways and nearby vegetation and soils, as well as increases nonpoint sources of pollution (including trash) and sedimentation. Based on current levels, recreational activities are a moderate and rangewide threat to the Santa Ana speckled dace.

Mining—Suction dredging is currently banned in California, although it was used in the past in the San Gabriel River and in the Cajon Wash and Lytle Creek. Recreational mining for gold has increased in these same areas in recent years with the increase in gold prices. This activity lowers water quality, destroys sensitive habitat, and disturbs Santa Ana speckled daces in the surrounding areas. In the San Gabriel River watershed, gold mining activities are impacting daces in the East Fork of the San Gabriel River and Cattle Creek. Habitat in Fish Canyon has also been impacted by a rock quarry, although, as of 2015, the mining company was in the process of restoring habitat for the Santa Ana speckled dace (Moyle et al. 2015, p. 8). Any mining activities that affect the water channel can also directly kill or injure individual fish. Overall, mining activities occur in a few areas and appear to be less extensive than other recreational activities. While mining is not currently considered a substantial threat, recreational mining is

currently degrading habitat quality in some areas within the species' range, and changes in restrictions that would increase the rangewide extent of mining activities could result in a substantial increase in impact on the Santa Ana speckled dace in the future.

Roadways—Roadways that run along or cross occupied Santa Ana speckled dace habitat create a variety of impacts that degrade habitat and impact water quality. Roads are sources of nonpoint pollution (chemical and trash) and sediment inputs and can also constrict the natural morphology of the waterway (straighten out a naturally braided stream), restricting dispersal capacity for individuals. Roads can also negatively impact or eliminate vegetation near riverbanks, degrading water quality and overall habitat quality. Unpaved roads increase the potential for erosion and sediment inputs, especially in mountainous terrain, where most of the remaining Santa Ana speckled dace habitat is found. Where roads facilitate recreational access and activities, the associated negative effects are moderately impacting the majority of Santa Ana speckled dace analytical units.

Hydrological Activities and Diversions—Water flow in Big Tujunga Creek and in the West Fork of the San Gabriel River is regulated by large permanent dams that impact habitat quality, stream flow, water temperature, sediment transport, stream morphology, and dispersal. Unregulated flows are available to maintain habitat for the Santa Ana speckled dace in the East and North Forks of the San Gabriel River and their associated tributaries. Several unregulated tributaries also flow into Big Tujunga Creek.

Dams and regulated flows reduce the delivery of coarse substrates (for example, cobble and gravel) to occupied downstream reaches, reducing breeding and forage habitat. Above dams, the accumulation of sediments converts actively flowing stream channels to still-water marshes. Marsh habitat favors nonnative species, such as largemouth bass (*Micropterus salmoides*) and other centrarchids that are predators on Santa Ana speckled dace (USACE 2001, p. 4–28). Slow or standing water also allows fine materials to settle out, resulting in a substrate that does not support breeding and foraging habitat for the Santa Ana speckled dace. In periods of extreme drought, releases from dams have helped provide sufficient flows to move sediment to improve habitat for the Santa Ana speckled dace downstream.

Levees and other methods of channelizing streams limit and often prevent the natural meandering process of rivers, limiting them to more linear paths. As such, levees confine available habitats to a narrower geographical area and, under most conditions, a shorter linear length. Additionally, during flood events, water confined within levees flows faster, and areas that serve as refugia/sheltering habitat become scarce. In summary, hydrological modifications—dams and stream channelization activities—have significantly altered and degraded Santa Ana speckled dace habitat throughout the dace's historical range, reducing its current habitat conditions compared to its historical habitat conditions, and represent a moderate to high threat to the species.

Habitat Fragmentation From Hydrological Modifications

Hydrological modifications also limit or sever habitat connectivity, which affects the dispersal of the Santa Ana speckled dace. Such modifications include flood control dams, drop structures, recreational dams, road crossings (for example, culverts), and levees. Large dams, such as Cogswell Dam, severely limit connectivity between Santa Ana speckled dace populations, only allowing limited, unidirectional migration downstream. These and other barriers reduce fish passage, in turn reducing gene flow and limiting or preventing population replenishment. Drop structures also impede or prevent upstream movement. Recreational dams, constructed out of rocks, vegetation, or other debris to create pools for recreational waterplay, create barriers during low-flow conditions but may be passable during higher flow conditions. Although recreational dams are typically destroyed by high winter flows, recreationalists subsequently rebuild new dams. Trash and debris can also build up during high flows and create barriers. Culverts and other road crossings may prevent access into tributaries or limit connectivity within the main river channel. Additionally, prolonged periods of low flows as a result of reduced water input (such as through flood control measures, storage, or diversion, or through drought conditions) can allow native and nonnative vegetation to accumulate, which can sometimes serve as barriers to fish passage (see OCWD 2012, entire). Barriers are currently present rangewide, causing a moderately high impact on the Santa Ana speckled dace.

Debris Flows and Increased Risk of Wildfire

Debris flows are fast-moving landslides that generally occur during periods of intense rainfall or rapid snowmelt and usually start on hillsides or mountains. Heavy precipitation in steep areas can cause debris flows, which negatively impact Santa Ana speckled dace occupancy and can extirpate small, isolated occurrences, as likely historically occurred within Fish Canyon Creek. Currently, debris flows are a disproportionate threat because all remaining dace habitat now occurs in small, steep waterways due to the loss of less steep downstream habitat to development and human activities. Debris flows can result from an excess overland flow from intense precipitation in steep mountain catchments with available sediment. In southern California mountains, debris flows are driven by precipitation and occur in both burned and unburned terrain. However, wildfires greatly increase the likelihood of debris flows within the burned area by removing vegetation and temporarily elevating soil hydrophobicity (Staley et al. 2017, entire), where hydrophobic layers are created in the soil profile from the heat. When debris flows occur, they can cause significant erosion to hillslopes and channels, resulting in large amounts of sediment being carried downstream. This excessive sediment can fill in pools, causing profound negative impacts on local wildlife, including fish such as the Santa Ana speckled dace.

Wildfire has the potential to impact Santa Ana speckled dace habitat throughout all of the occupied and unoccupied reaches of all watersheds within the range of the species. Wildfire also eliminates vegetation that shades the water and moderates water temperature and may further impact water transport, sediment transport, water quality, and flow regime. Fires followed by debris flows have the potential to extirpate occurrences (particularly small, isolated occurrences), especially when fire frequency increases. Burned uplands in the watersheds affect Santa Ana speckled dace habitat by producing silt-and-ash-laden runoff that can fill in pools and significantly increase turbidity of rivers. Large wildfires have caused local extirpations in isolated dace occurrences (Expert Working Group 2023, p. 23). Wildfire will impact the Santa Ana speckled dace throughout its remaining range, although the location, frequency, and size of these events cannot be precisely predicted. An expected increase in wildfire

frequency and severity is currently a substantial threat to Santa Ana speckled dace habitat. Changing climate conditions are a primary driver for this, as described below.

Changing Climate

Climate change forecasts for the Northern Hemisphere predict warmer air temperatures, more intense precipitation events (both drought and flooding), and increased summer continental drying by the year 2100 (Cayan et al. 2005, p. 6). The Santa Ana speckled dace requires cooler water, with temperatures that stay below 28 °C (82 °F). The species is capable of withstanding elevated water temperatures (Moyle et al. 2015, p. 11), but the lethal upper temperature limit is unknown. Fish are generally more stressed at the upper extremes of their temperature range, and although they may be able to survive, elevated temperature is an example of a stressor that may affect them through reduced disease resistance (Moyle et al. 2015, p. 11). Drought negatively impacts dace by reducing connectivity within currently occupied watersheds, further isolating dace, limiting available habitat, and degrading remaining habitat. Currently, impacts from climate change are considered moderate, but they are projected to increase in the future. Although average annual precipitation is predicted to increase, summer and fall flows are predicted to be stable to slight decreases, which will reduce connectivity within currently occupied watersheds, further isolating dace, limiting available habitat, and degrading remaining habitat. Increases in precipitation from wintertime storms could have both beneficial impacts to the streams (mitigating impacts from drought including flushing systems, reconnecting isolated reaches). However, increases in wintertime precipitation in southern California due to climate change would most likely lead to more frequent intense storms that can initiate debris flows, both in burned and unburned settings. Additionally, increasing summer air temperatures and decreasing precipitation will likely impact the availability of suitable cooler-water habitat during the summer and fall months, when the Santa Ana speckled dace is already most vulnerable to low flows and high water temperatures.

Regionally, the American Southwest has the hottest and driest climate in the United States. The current drought in the western United States is one of the worst in the last 1,200 years and is exacerbated by climate warming (Williams et al. 2020, p. 317). Climate

warming will make droughts longer, more severe, and more widespread in the future. Prolonged droughts can cause effects to Santa Ana speckled dace habitat (e.g., stream flows and the frequency and severity of wildfire) in detrimental ways.

Climate change is also predicted to increase fire probability. Although the fire footprint is not likely to change—because most of the area within the range of the Santa Ana speckled dace has already burned—there is an increased probability of fires in the future.

Increases in wintertime precipitation in southern California due to climate change would most likely lead to more frequent intense storms that can initiate debris flows, both in burned and unburned settings. The combination of elevated water temperatures with increased risks from drought (in summer), increased rainfall (in winter), and fire throughout the remaining range of the Santa Ana speckled dace suggests a higher threat from climate change in the future.

Nonnative Species

Aquatic habitat may be modified by the presence of nonnative vegetation in a variety of ways. For the Santa Ana speckled dace, the giant reed (*Arundo donax*), an invasive, bamboo-like, perennial grass (*Poaceae*), poses a host of problems that degrade remaining habitats. Giant reed is commonly found growing along lakes, streams, and other wetted areas, and once established it can survive long periods of drought. Where dominant, giant reed is correlated with increased levels of pH and ammonia and decreased levels of dissolved oxygen (Moyle et al. 2015, p. 9). Compared to other riparian vegetation, it uses large amounts of water to support exceptionally high growth rates (Bell 1997, p. 104). This species is considered a primary threat to riparian corridors, and thus Santa Ana speckled dace habitat, because of its ease of establishment and spread and its ability to alter the hydrology of riparian systems (CDFW 2015, p. F-11).

There are numerous nonnative fish species that are common in all four of the river systems where Santa Ana speckled daces are found. These species are concentrated in the reservoirs and degraded streams within these watersheds. Brown trout (*Salmo trutta*), hatchery-stocked rainbow trout (*Oncorhynchus mykiss*), and red shiners (*Cyprinella lutrensis*) can either directly compete with or predate on dace (Moyle et al. 2015, p. 9). The American bullfrog (*Lithobates catesbeiana*), another potential predator, has also been

observed in Big Tujunga Creek, and may predate on varying life stages of the dace (Haines Creek) (ECORP Consulting Inc. 2013, pp. 29–31). Additionally, the red swamp crayfish (*Procambarus clarkii*), predates upon the Santa Ana speckled dace, is known from Big Tujunga Creek (O'Brien 2015, entire) and may also be more widespread. Dams and impoundments (such as engineered flood control dams, recreational dams, drop structures, and groundwater recharge basins) and pools created as the result of changes in hydrology from the giant reed can improve habitat for nonnative predators, allowing their populations to increase. Impacts from nonnative predators are rangewide and can be severe at the population scale. The conditions that promote exposure to predation are highly variable across locations and over time. Therefore, the threat of nonnatives to the Santa Ana speckled dace is considered a low to moderate threat.

Small Population Effects

The Santa Ana speckled dace occurs mostly in small, isolated populations throughout its range. These small, isolated populations are vulnerable to a number of deleterious effects including: (1) demographic fluctuation due to random variation in birth and death rates and sex ratio; (2) environmental fluctuation in resource or habitat availability, predation, competitive interactions, and catastrophes; (3) reduction in cooperative interactions and subsequent decline in fertility and survival (i.e., Allee effects); (4) inbreeding depression reducing reproductive fitness; and (5) loss of genetic diversity reducing the ability to evolve and cope with environmental change (Traill et al. 2010, p. 29). In particular, small populations of Santa Ana speckled dace are more vulnerable to extirpation during catastrophic or stochastic events, such as flood events (that can physically wash dace away), debris flows (which are much more likely after fire and reduce habitat quality and population size), or sustained drought (that can result in the loss or reduction of surface flows and concomitant increases in water temperature). Isolation means that any remnant populations following these events are unlikely to benefit from demographic or genetic rescue, further elevating the risks of inbreeding depression, loss of genetic diversity, and reductions in evolutionary potential that can contribute to population extirpation. These small population effects interact with other factors to pose a low to moderate threat across the species' current range.

Cumulative and Synergistic Effects

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have analyzed the cumulative effects of identified threats and conservation actions on the species. To assess the current and future condition of the species, we evaluate the effects of all the relevant factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative-effects analysis.

Conservation Efforts and Regulatory Mechanisms

Several mechanisms provide a conservation benefit to the Federally-listed Santa Ana sucker (*Catostomus santaanae*), which also provide a benefit to Santa Ana speckled dace where the species co-occur. A native fish facility is operated by the Riverside-Corona Resource Conservation District that rears native fish including Santa Ana sucker and Santa Ana speckled dace for multiple conservation efforts including research, temporary holding, breeding for augmentations and reintroductions, and educational purposes. The draft Upper Santa Ana River Habitat Conservation Plan (HCP) has a conservation strategy with objectives and actions that help benefit Santa Ana speckled dace in the Santa Ana River AU including long term monitoring, threats analysis, removing barriers and installing fishway passages to increase connectivity, nonnative species control, and salvage operations to relocate individuals after floods. The Santa Ana speckled dace is also a covered species under the Big Tujunga Dam Low-Effect HCP where Santa Ana speckled dace in the LA River AU benefit from multiple conservation measures. Avoidance and minimization measures are implemented to limit impacts on Santa Ana speckled dace and Santa Ana sucker, including the timing of dam releases, storing and releasing supplemental water during the dry season to improve habitat quality, habitat monitoring, dace monitoring, and potential habitat enhancement measures. Other regulatory mechanisms thought to have some potential to protect Santa Ana speckled dace include: (1) California Endangered Species Act (where the Santa Ana speckled dace co-occurs with State-

listed species), (2) California Environmental Quality Act, (3) National Environmental Policy Act, (4) the Clean Water Act, (5) the Endangered Species Act (where Santa Ana speckled dace co-occurs with other federally-listed species), and (6) land management or conservation measures by Federal, State, or local agencies or by private groups and organizations. Each of these regulatory mechanisms provide some level of support to help protect Santa Ana speckled dace throughout its range. Several State and Federal mechanisms currently provide a conservation benefit to the Federal- and State-listed Santa Ana sucker, which will also provide a benefit to Santa Ana speckled dace where the species co-occur.

Current Condition

The historical distribution of the Santa Ana speckled dace once extended across the upland and middle reaches of the Los Angeles, San Gabriel, Santa Ana, and San Jacinto rivers. These systems were historically connected in the alluvial plain during flood events, allowing for connectivity among watersheds. Additionally, these areas provided suitable habitat as well as refuge for populations during stochastic and catastrophic events such as fire, drought, and debris flows. The historical viability afforded to daces by this diversity and extent of available habitats has been lost to development and other human impacts in the lower reaches of these watersheds. For the Santa Ana speckled dace, the impacts of these changes from historical to current conditions include reductions in currently available habitat, reduced quality of remaining available habitat, minimal to no connectivity among occupied river occurrences within and among watersheds, and presumed small population sizes based on declining detections over time and/or small

numbers of observed fish. This historical context for the current status of the Santa Ana speckled dace sets the stage for the species' overall capacity to withstand environmental and demographic stochasticity and disturbances (resiliency), catastrophic events (redundancy), and novel changes in its biological and physical environment (representation).

When determining population resiliency for the Santa Ana speckled dace, we examined the four currently occupied river systems as separate populations or analysis units: San Gabriel, Los Angeles, Santa Ana, and San Jacinto analysis units. We used four metrics representing habitat and demographic needs to evaluate resiliency at the analysis unit scale: amount of habitat, quality of habitat, connectivity, and population size. We determined the overall resiliency condition for each analysis unit by narratively integrating two habitat needs (habitat quality and amount of habitat) and two demographic needs (size of population and connectivity), with the size of population (*i.e.*, abundance of individuals within a population) accounting for relatively more of the overall resiliency condition. We evaluated representation by examining available data on the breadth of genetic, phenotypic, and ecological diversity across the Santa Ana speckled dace's range from historical to current conditions, as well as the species' ability to disperse and colonize new areas. We evaluated redundancy by analyzing the number and distribution of populations from historical to current conditions relative to the magnitude of anticipated catastrophic events, such as floods and wildfires.

Resiliency

The current condition of Santa Ana speckled dace populations varies among

the four analysis units, with the San Gabriel analysis unit retaining the most high-quality and intact habitat across the range, and moderate resiliency. Relative to the other analysis units, this unit is more connected, although dispersal is limited among some occurrences due to permanent barriers. Santa Ana speckled dace populations appear to have low but stable abundance in this analysis unit; however, population size of the unit is considered moderate due to the number and quality of occupied river miles. In contrast, the Los Angeles analysis unit has less habitat available with degraded habitat quality and limited connectivity. Overall, this system has low resiliency; however, the Santa Ana speckled dace appears to be consistently present in low, though still relatively stable, numbers. The Santa Ana analysis unit has the most known occurrences and most occupied river miles, and low to moderate resiliency. Occupied occurrences are currently disconnected and remain largely isolated by the overall low flows. Abundance in the Santa Ana analysis unit is low but considered stable. Finally, the San Jacinto analysis unit is less impacted by human disturbance relative to the other analysis units, though available habitat is limited and only one small population is thought to remain extant, resulting in low resiliency. Overall, the two larger analysis units have moderate (San Gabriel) and low to moderate (Santa Ana) resiliency, contain the majority of occupied areas, and are likely to withstand stochastic events. The other two analysis units are smaller, have low resiliency, and are more at risk of extirpation from stochastic events. Table 1 shows the current condition of habitat and demographic needs and overall resiliency for each of the analysis units.

TABLE 1—OVERALL CURRENT RESILIENCY CONDITIONS FOR EACH ANALYSIS UNIT

Population	Amount of habitat	Quality of habitat	Dispersal	Size of population *	Resiliency *
Los Angeles River	Low	Low/Moderate	Low/Moderate	Low	Low.
San Gabriel River	Moderate	Moderate	Moderate	Moderate	Moderate.
Santa Ana River	Moderate	Moderate	Low	Low/Moderate	Low/Moderate.
San Jacinto River	Low	Low/Moderate	Low/Moderate	Low	Low.

* Resiliency is largely influenced by the size of population score, as this parameter is the most important in determining resiliency. Specifically, the resiliency score cannot be higher than the size of population score.

Representation

Representation, or adaptive capacity, is maximized in a species with healthy populations distributed across the breadth of its evolutionary lineages and ecological niches that is capable of

moving to new, suitable environments or capable of altering their physical or behavioral traits (phenotypes) to match changing environmental conditions through either plasticity or genetic change (Nicotra et al. 2015, p. 1270;

Beever et al. 2016, p. 132). By this definition, the adaptive capacity of the Santa Ana speckled dace from historical to current conditions has diminished due to the loss of historically occupied habitats across the range and isolation of

small remnant populations in headwater habitats. This has reduced representation of evolutionary lineages in each watershed and the diversity of occupied ecological niches (*i.e.*, due to population extirpations and complete loss of lower watershed habitats). Remnant populations are relatively small and isolated, both within and across the four remaining analysis units. In spite of this, the number of miles of occupied streams is still relatively high, and it is unlikely that all populations will be impacted by threats evenly or in a significant way that would cause widespread extirpation.

Disrupted connectivity and restriction to headwaters means that populations have limited capacity to colonize new habitats or shift their distribution to avoid or mitigate threats. Disrupted connectivity also reduces or eliminates gene flow, increasing the impacts of genetic drift and inbreeding, and reducing evolutionary potential that could allow populations to adapt to changing environmental conditions, such as warming stream temperatures.

While other populations of speckled daces have shown plasticity in feeding behavior that facilitates responses to fluctuating resource availability, feeding plasticity is reduced in anthropogenically impacted populations (Behn and Baxter 2019, pp. 17–19) such as the Santa Ana speckled dace. Additionally, relative to other native fish, other species in the Santa Ana speckled dace complex have limited plasticity (*i.e.*, acclimation capacity) in their upper thermal tolerance, reducing tolerance for increasing water temperatures (Carveth et al. 2006, pp. 1436–1438).

Overall, these constraints on dispersal capacity, evolutionary potential, and plasticity, in combination with low to moderate resiliency of Santa Ana speckled dace populations, point to limited representation (adaptive capacity) within populations and across the species' range.

Redundancy

As with representation, redundancy from historical to current conditions for the Santa Ana speckled dace has been diminished due to permanent loss of historically occupied habitats. In particular, loss of the lower reaches of the currently occupied watersheds has eliminated access to refugial habitats that historically protected fish from extirpation during stochastic and catastrophic events including fire, drought, and debris flows. These habitats also allowed for recolonization of upper headwaters once conditions improved. These habitat losses have

placed all remaining remnant populations at a much higher risk of extirpation due to catastrophic and even less severe stochastic events. This is illustrated by fish salvage efforts (*e.g.*, in the San Gabriel River analysis unit) that were needed after the 2020 Bobcat Fire to protect populations from debris flows; historical access to lower-elevation habitats would likely have allowed populations to persist and recolonize naturally (*i.e.*, without human intervention) in response to fire and debris flow events.

Currently, the Santa Ana speckled dace occupies 17 occurrences across four analysis units. This relatively broad distribution provides some level of redundancy and helps ensure that multiple populations contribute to species viability since all occurrences are unlikely to be impacted simultaneously by any single catastrophic event. Two of the analysis units with low resiliency (Los Angeles River and San Jacinto River) are more at risk of stochastic and catastrophic events, and the loss of either of these would reduce redundancy. However, the other two analysis units are significantly larger and less likely to become extirpated from stochastic or catastrophic events. Overall, redundancy has been reduced compared to historical conditions. The fact that Santa Ana speckled daces have been able to naturally recolonize areas shortly after a catastrophic event suggests that there is recovery potential where risks can be mitigated via human intervention, which could help to maintain redundancy in the future.

Summary of Current Condition

The Santa Ana speckled dace occurs in the San Gabriel, San Bernardino, and San Jacinto Mountain ranges in Los Angeles, San Bernardino and Riverside Counties, California. The majority of occupied habitat is on Federal lands, and the species occurs in 17 extant occurrences across four analysis units. Fish are largely restricted to the headwaters with a low to moderate quantity of habitat with moderate quality habitat readily available. There is limited connectivity within some of the populations, particularly in the Santa Ana River and San Jacinto River analysis units. Populations are generally stable currently, although smaller populations will be less able to withstand environmental and demographic stochasticity in the foreseeable future. The low to moderate resiliency across the four extant units, in addition to losses across the historical range, contributes to an overall reduced adaptive capacity for

Santa Ana speckled dace populations, which may limit their ability to respond to novel changes in the environment. However, the species as a whole is generally resilient to periodic disturbances, and the species is consistently detected across the analysis units. Small population sizes not only increase risks from demographic and environmental stochasticity but also reduce the genetic and trait diversity that supports evolutionarily adaptive and plastic responses to change. Lack of connectivity and limited habitat availability also reduce the ability of populations to disperse in response to changing future conditions.

Overall viability of the Santa Ana speckled dace is reduced relative to historical conditions, however there are currently 17 extant populations across the range. We anticipate that while these populations are currently relatively stable, diminished viability over time may result in a low to moderate ability to sustain populations in the wild into the future. These are the baselines that we used when projecting the species' future condition.

Future Condition

To analyze future conditions, we developed two plausible scenarios to assess how the species' needs, threats, and habitat conditions may change at both mid-century and late century. We considered what the Santa Ana speckled dace needs for species viability, and we evaluated the past, current, and future influences that are affecting habitat and demographic needs. Habitat loss, habitat degradation, habitat fragmentation, increased risk of wildfire, nonnative species, climate change, and small population sizes are the threats evaluated in the future scenarios, as they are projected to influence the viability of the Santa Ana speckled dace into the future. None of the threats we identified were insignificant enough to exclude from our future condition evaluation. We applied our future forecasts to the concepts of resiliency, representation, and redundancy to describe the future viability of the Santa Ana speckled dace.

After evaluating the current threats described above, we determined that the Santa Ana speckled dace will likely continue to be impacted by all current identified threats. Because future changes in the global climate have the potential to affect a number of current threats, we developed two plausible future scenarios based on the recommended lower and upper bounds for climate change emissions scenarios, representative concentration pathway (RCP) 4.5 and RCP 8.5 at mid-century

(2030–2059) and late-century (2070–2099) timepoints (Service 2023b, p. 10). We forecast the future scenarios at two timepoints (mid-century and late century) because these time periods are within the range of the available climate change model projections that we used to project changes in stream temperature, stream flow, and fire, and these model projections are considered the best available science (Service 2023a, pp. 15–16). Table 2, below, describes the change in parameters for each of the scenarios compared to the modeled baseline.

These future scenarios examine the same threats identified above under *Current Condition*, including habitat loss, habitat degradation, habitat fragmentation, increased risk of wildfire, nonnative species, small population effects, and climate change

(extreme precipitation metrics (10-year flood events), stream flows, and stream temperatures). For area burned, we used the Cal-Adapt boundary selection tool to upload AU shapefiles to aggregate annual hectares burned in each AU (where data were available) for each RCP model. Current threats are predicted to be ongoing based on analysis including climate change models, discussions with species experts and land managers, and review of reports and other literature. Impacts from recreation and other human-related impacts (including maintaining current dams that fragment the habitat) are expected to continue in the future, while all climate models predict the main impacts of climate change will continue through the century. Since invasive species are hard to eradicate, we predict plausible impacts from these

species will continue in the future, although management decisions will influence the level of impact to some degree.

For each scenario, we describe the threats that would occur in each analysis unit. We examined resiliency, representation, and redundancy under each of these two plausible scenarios. In this analysis, population resiliency depends on demographic conditions (including distribution size, population size, and connectivity) and the overall amount and quality of habitat that is available. Debris flows caused by heavy precipitation events (primarily wintertime storms that result in flood events), with or without the aggravating impact of wildfire burn scars, are a primary threat that influences resiliency for each analysis unit.

TABLE 2—FUTURE SCENARIO COMPARISON TABLE: CHANGE IN PARAMETERS FROM MODELED BASELINE

Parameter	Scenario 1: RCP4.5		Scenario 2: RCP8.5	
	Mid-century	Late century	Mid-century	Late century
Fire Probability	Slight increase: 1–6% increase.	Slight increase: 2–9% increase.	Increase: 8–13% increase	Significant increase: 12–22% increase.
Fire: Area Burned	Current rate	Current rate	Slight increase	Slight increase.
Mean Summer Stream Flows.	Stable to Slight decline	Stable to Slight decline	Stable to Slight decline	Stable to Slight decline.
Mean Winter Stream Flows	Increase: 1.4–1.7 times higher.	Increase: 1.1–1.4 times higher.	Significant increase: 1.6–2.2 times higher.	Significant increase: 1.8–3.2 times higher.
10-year Flood Events	Increase: 1.1–1.9 times higher.	Slight increase: 1.0–1.5 times higher.	Increase: 1.1–2.5 times higher.	Significant increase: 1.2–3.6 times higher.
August Stream Temperatures.	1 °C increase; Highest temp 24 °C.	1.5 °C increase; Highest temp 24.5 °C.	1.4 °C increase; Highest temp 24.4 °C.	3.4 °C increase; Highest temp 26.4 °C.

Scenario 1

Resiliency—Under Scenario 1, a low-moderate emission scenario (RCP4.5) was used to predict impacts from threats related to climate change (including fire, stream flows, winter precipitation, and stream temperatures; see section 8.1 in the SSA report for more detail) at mid-century and late century. In this scenario, habitat loss, habitat degradation (human recreation activities, mining, roadways, and hydrological modifications and diversions), habitat fragmentation, nonnative species effects, and small population effects continue at the same rate. Impacts from a changing climate are already influencing Santa Ana speckled dace habitat in all analysis

units and are projected to increase in the future under RCP4.5, albeit less than under RCP8.5. Based on the climate change projections, impacts from fire (area burned and fire frequency) and precipitation (primarily heavy winter precipitation and 10-year flood events) are predicted to vary based on the analysis unit, but in general the probability of fire and the magnitude of 10-year flood events will increase. Within the Santa Ana River analysis unit, resiliency is projected to slightly increase to moderate by mid-century in both emission scenarios due to a very slight increase (1% increase by mid-century and no change by late century) in fire risk, and the potentially beneficial impacts of higher flows in the absence of fire. As described above,

modeled changes in wintertime base flows and the magnitude of 10-year flood events are proxies for changes in extreme precipitation/wintertime storms. Heavy precipitation events, with or without the aggravating impact of wildfire burn scars, have an outsized influence over future debris flows, which are widely acknowledged to lower resiliency of dace by reducing population size and degrading habitat. Resiliency is projected to be similar to current conditions at mid-century but is projected to decrease by late century. The future condition for the four analysis units under Scenario 1 is shown below in tables 3 and 4 for mid-century and late century projections, respectively.

TABLE 3—FUTURE SCENARIO 1 (RCP4.5) MID-CENTURY CONDITION TABLE

Analysis unit	Amount of habitat	Quality of habitat	Dispersal	Size of population	Resiliency
Los Angeles River	Low	Low/Moderate	Low/Moderate	Low	Low.
San Gabriel River	Moderate	Low/Moderate	Moderate	Low/Moderate	Low/Moderate.
Santa Ana River	Moderate	Moderate	Low/Moderate	Moderate	Moderate.

TABLE 3—FUTURE SCENARIO 1 (RCP4.5) MID-CENTURY CONDITION TABLE—Continued

Analysis unit	Amount of habitat	Quality of habitat	Dispersal	Size of population	Resiliency
San Jacinto River	Low	Low/Moderate	Low/Moderate	Low	Low.

TABLE 4—FUTURE SCENARIO 1 (RCP4.5) LATE CENTURY CONDITION TABLE

Analysis unit	Amount of habitat	Quality of habitat	Dispersal	Size of population	Resiliency
Los Angeles River	Low	Low	Low/Moderate	Low	Low.
San Gabriel River	Moderate	Low	Moderate	Low	Low.
Santa Ana River	Moderate	Moderate	Low/Moderate	Moderate	Moderate.
San Jacinto River	Low	Low/Moderate	Low/Moderate	Low	Low.

Representation—In this scenario, adaptive capacity is further reduced from historical levels with impacts to the four analysis units that represent the last remnants of the species’ historical range (the headwaters of four river systems). The San Gabriel River analysis unit is projected to become more degraded by the increased risk of fire and high rainfall events, reducing dispersal capacity and evolutionary potential within the current stronghold analysis unit. The Santa Ana River analysis unit has the best chance of maintaining current habitat and population sizes as there is less risk of fire. The least resilient analysis units, the San Jacinto River and Los Angeles River, are likely to remain small due to increased fire risk. In summary, ongoing reductions in habitat quantity, habitat quality, connectivity, and population sizes will continue degrading representation rangewide, contributing to reduced ability to adapt to changing conditions in the future under this scenario.

Redundancy—In this scenario, all four analysis units are projected to remain extant, although reduced resiliency and representation at late century put dace populations at higher risk of extirpation from catastrophic events. Although the distribution is projected to remain spread over four river systems, dace generally occur in the upper tributaries where there is a limited capacity to recover from high consequence events, such as fires, droughts, and debris flows. Two of the

analysis units with low resiliency are more at risk of stochastic and catastrophic events, and the loss of either of these would reduce redundancy. The remaining two analysis units are significantly larger and less likely to become extirpated from stochastic or catastrophic events. The magnitude (*i.e.*, flow levels) of 10-year flood events, representing potentially catastrophic events that could extirpate dace occurrences, are 1.1 to 1.9 times higher than baseline 10-year flood events by mid-century (see Service 2023a, appendix D, table D–5, p. 86). In particular, Cajon Creek and the Santa Ana River Mainstem in the Santa Ana River analysis unit are projected to see flooding at 1.5 and 1.9 times baseline flood levels, respectively, placing these occurrences at higher risk of extirpation. By late century, reduced emissions under RCP4.5 lower the magnitude of 10-year flood events to 1.0–1.5 times baseline flood levels, slightly reducing the risk of extirpation due to debris flows caused by storms. Overall, it is unlikely that catastrophic events such as floods and subsequent debris flows would extirpate all current occurrences within an analysis unit, though some are at higher risk than others.

Scenario 2

Resiliency—Under Scenario 2, a high emission scenario (RCP8.5) was used to evaluate impacts from threats related to increased risk of wildfire and climate change (stream flows, winter

precipitation, and stream temperatures; see section 8.1 of the SSA report for more detail) at mid-century and late century. In this scenario, habitat loss, habitat degradation (human recreation activities, mining, roadways, and hydrological modifications and diversions), habitat fragmentation, nonnative species effects, and small population effects continue at the same rate. Impacts from a changing climate are already influencing Santa Ana speckled dace in all analysis units, and the future impacts under RCP8.5 will continue to increase. Climate change projections predict increases in the probability of fire and the magnitude of 10-year flood events. As described above, modeled changes in wintertime base flows and the magnitude of 10-year flood events are proxies for changes in extreme precipitation/wintertime storms. Heavy precipitation events, with or without the aggravating impact of wildfire burn scars, have an outsized influence over future debris flows, which are widely acknowledged to lower resiliency of dace by reducing population size and degrading habitat. Under Scenario 2, at mid-century, all populations are projected to be at low resiliency and are more at risk of stochastic events; by late century, two of the analysis units will also be at risk of extirpation. The future conditions for the four analysis units projected under Scenario 2 for mid-century and late century are shown in tables 5 and 6, respectively.

TABLE 5—FUTURE SCENARIO 2 (RCP8.5) MID-CENTURY CONDITION TABLE

Analysis unit	Amount of habitat	Quality of habitat	Dispersal	Size of population	Resiliency
Los Angeles River	Low	Low	Low/Moderate	Low	Low.
San Gabriel River	Moderate	Low	Low/Moderate	Low	Low.
Santa Ana River	Moderate	Low/Moderate	Low/Moderate	Low	Low.
San Jacinto River	Low	Low	Low/Moderate	Low	Low.

TABLE 6—FUTURE SCENARIO 2 (RCP8.5) LATE CENTURY CONDITION TABLE

Analysis unit	Amount of habitat	Quality of habitat	Dispersal	Size of population	Resiliency
Los Angeles River	Low	Low	Low/Moderate	Extirpated	Extirpated.
San Gabriel River	Low/Moderate	Low	Low	Low	Low.
Santa Ana River	Low/Moderate	Low	Low	Low	Low.
San Jacinto River	Low	Low	Low/Moderate	Extirpated	Extirpated.

Representation—In this scenario, due to the heightened threats described in Scenario 2 the trajectory for projected loss of representation relative to historical and current conditions is more severe when compared to Scenario 1. This is driven by the potential extirpation of two of the four AUs, which represent the most southern and most western populations. These extirpations would represent complete loss of evolutionary lineages and occupancy of potentially unique habitats across the species' range. These decreases in the species' range would limit recovery potential as genetic and phenotypic diversity and the corresponding adaptive capacity in these AUs would be permanently lost.

Representation—In this scenario, the extirpation of two AUs by late century and low condition for all AUs at mid-century points to a sharp drop in redundancy across the species' range. In addition to reductions in resiliency, all AUs face elevated risks from high magnitude 10-year flood events at both mid and late-century, which correlates to higher risk of debris flows. In particular, all eight current occurrences within the Santa Ana AU will see 10-

year flood events that are 1.4–2.5 times baseline flood levels at mid-century, placing the entire AU at risk from catastrophic debris flow events from extreme precipitation events. By late century, the magnitude of 10-year flood events is 1.2–3.6 times baseline flood flows rangewide, with almost all occurrences facing significantly higher 10-year flood levels, elevating AU-wide extirpation risks. Combined with reduced resiliency, these increases in potentially catastrophic flood events (and resulting debris flows from storms) indicate that at least two AUs are likely to be extirpated under Scenario 2 by late-century.

Summary of Future Condition

Future scenarios for the Santa Ana speckled dace point to conditions that will further degrade the viability of the species. Under a low to moderate emissions climate change scenario (Scenario 1, RCP4.5), one of the four analysis units (Santa Ana River) will have moderate resiliency given stochastic environmental and demographic disturbances through late century. Low resiliency across the remainder of the range will contribute to

ongoing reductions in adaptive capacity and place populations at high risk of extirpation from catastrophic events due to limited capacity to respond and recover from high consequence events, including increased fire and debris flows. Under a higher emissions climate change scenario (Scenario 2, RCP8.5), two analysis units are projected to be extirpated by late century, with the remaining two units in low condition. All units will face elevated risks of extirpation from high-magnitude flood events. Losses of redundancy and representation rangewide, including the extirpation of two analysis units, will dramatically reduce overall species viability. Overall, future species resiliency is projected to be low, representation will become limited, and reduced redundancy will place the species at high risk from catastrophic events. Thus, the Santa Ana speckled dace will have less capacity to sustain populations in the wild in the future, reducing viability and elevating extinction risk. Table 7, below, describes the comparison between current condition and future condition for the species.

TABLE 7—CURRENT AND FUTURE CONDITION CATEGORY COMPARISON TABLE

Analysis unit	Current	Mid-century future scenario 1	Mid-century future scenario 2	Late century future scenario 1	Late century future scenario 2
Los Angeles River	Low	Low	Low	Low	Extirpated.
San Gabriel River	Moderate	Low/Moderate	Low	Low	Low.
Santa Ana River	Low/Moderate	Moderate	Low	Moderate	Low.
San Jacinto River	Low	Low	Low	Low	Extirpated.

Determination of Santa Ana Speckled Dace's Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act defines an "endangered species" as a species in danger of extinction throughout all or a significant portion of its range, and a "threatened species" as a species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The

Act requires that we determine whether a species meets the definition of an endangered species or a threatened species because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

Status Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we found that habitat loss, habitat degradation, and habitat fragmentation (all Factor A) are the most substantial threats to the species' viability. Within the foreseeable future, we anticipate that heavier debris flows pose the greatest future threat to the Santa Ana speckled dace's viability. Increased debris flows, driven by an increase in heavy rainfall and wildfire, are projected to impact habitat quality

and lead to future loss of habitat, particularly by late century. Effects from climate change are also projected to increase the probability of fire and affect habitat quality by raising water temperatures in summer and winter. We also considered the effects of nonnative species and the effects of small population size for their cumulative effects.

Given the presence of 17 populations across the four AUs that comprise the range of the Santa Ana speckled dace, and their general stability in terms of occurrence (detectability) and reproduction, the species is able to maintain its current resiliency. Historical constraints on dispersal capacity, evolutionary potential, and plasticity have reduced representation for the Santa Ana speckled dace. However, despite historical losses across the range, the species is currently extant among 17 occurrences, occupying 76 stream miles across four river systems. Having multiple populations provides redundancy against large catastrophic events, and it is unlikely that a single event would cause extinction across the species' range. When connectivity is still intact, populations have shown the ability to naturally recolonize areas affected by catastrophic events, which indicates that there is still some level of redundancy within populations (including the 2020 Bobcat Fire which impacted both the West Fork San Gabriel River and Bear Creek). Salvage efforts are also utilized to boost resiliency after flooding.

Santa Ana speckled dace populations are currently stable and reproducing, albeit at relatively low numbers. Small, isolated populations with reduced genetic diversity may magnify risk from demographic and environmental stochasticity. Lack of connectivity and limited habitat availability also reduce the ability of populations to shift in space in response to environmental change. However, the species shows resiliency in response to periodic disturbance, and fish are consistently found in the river systems they occupy. In addition, survey data indicate that in spite of multi-decadal threats and impacts, the species still occupies populations across its range. Furthermore, with four analysis units that have low to moderate resiliency, it is likely that the species will withstand stochastic events under current conditions. Given the current levels of resiliency, representation, and redundancy of the Santa Ana speckled dace across its range, and the relative stability the species maintains within each analysis unit, we conclude that the

species is not currently in danger of extinction throughout all of its range.

We next considered whether the Santa Ana speckled dace is likely to become in danger of extinction within the foreseeable future throughout all of its range. In considering the foreseeable future for the species, we analyzed expected changes in habitat availability, habitat degradation, habitat fragmentation, increased risk of wildfire, presence of nonnative species, climate change, and small population sizes to mid-century (2030–2059) and late-century (2070–2099) timepoints (Service 2023a, pp. 35–46). We determined that these timeframes represent periods for which we can make reasonably reliable predictions about both the threats to the species and the species' response to those threats.

Under a low to moderate emissions climate change scenario (Scenario 1, RCP4.5), resiliency at mid-century will be similar to current conditions, remaining low to moderate across the four analysis units. Representation and redundancy will also be comparable to current conditions. Because of similar conditions in Scenario 1, the Santa Ana speckled dace's viability at mid-century is not expected to change from its current level. However, there is still uncertainty about the level of impact that debris flows and a generally increased risk of wildfire might have on habitat quality amid changing climate conditions. Under a higher emissions climate change scenario (Scenario 2, RCP8.5), all four analysis units are projected to have low resiliency by mid-century, putting them all at risk of extirpation from stochastic events. Representation is also projected to be diminished, making it harder for the Santa Ana speckled dace to adapt and recover from adverse conditions. Redundancy is also reduced from current condition, increasing the likelihood of extirpation. Overall, the Santa Ana speckled dace will experience ongoing declines due to primary threats, and a reduced overall capacity to sustain populations in the wild into the future, substantially reducing viability and elevating extinction risk. Secondary threats, while not influencing viability in significant ways currently, could have more pronounced adverse effects given continuous declines in future condition. Thus, after assessing the best available information, we conclude that the Santa Ana speckled dace is not currently in danger of extinction but is likely to become in danger of extinction within the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range. The court in *Center for Biological Diversity v. Everson*, 435 F. Supp. 3d 69 (D.D.C. 2020) (*Everson*), vacated the provision of the Final Policy on Interpretation of the Phrase “Significant Portion of Its Range” in the Endangered Species Act’s Definitions of “Endangered Species” and “Threatened Species” (hereafter “Final Policy”; 79 FR 37578, July 1, 2014) that provided if the Service determines that a species is threatened throughout all of its range, the Service will not analyze whether the species is endangered in a significant portion of its range.

Therefore, we proceed to evaluating whether the species is endangered in a significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant; and (2) the species is in danger of extinction in that portion. Depending on the case, it might be more efficient for us to address the “significance” question or the “status” question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

Following the court's holding in *Everson*, we now consider whether the species is in danger of extinction in a significant portion of its range. In undertaking this analysis for the Santa Ana speckled dace, we choose to address the status question first.

We evaluated the range of the Santa Ana speckled dace to determine if the species is currently in danger of extinction in any portion of its range. The range of a species can theoretically be divided into portions in an infinite number of ways. We focused our analysis on portions of the species' range that may meet the Act's definition of an endangered species. For the Santa Ana speckled dace, we considered whether the threats or their effects on the species are greater in any biologically meaningful portion of the species' range than in other portions such that the species is currently in danger of extinction in that portion. For our analysis, we examined the following threats: habitat loss, habitat degradation, habitat fragmentation, increased risk of wildfire, changing climate trends,

nonnative species, and small population effects.

While threats that may impact the Santa Ana speckled dace are not concentrated in any geographic areas within the range, our analysis indicated that two analysis units within the range may be more vulnerable to extirpation than the other two. The Los Angeles River analysis unit is a smaller unit with two occupied Santa Ana speckled dace occurrences. While these occurrences are connected, the analysis unit has limited available habitat, degraded habitat quality, and consistently low abundance estimates. The amount of available habitat within this unit, with 15 miles of occupied habitat, was rated as low because there are less than 20 stream miles of occupied habitat that does not require some form of management to maintain. Habitat quality within the analysis unit was rated as low to moderate because some of the essential features, including habitat free of nonnative species, adequate flows, appropriate water quality, and proper substrate, are degraded.

The San Jacinto River analysis unit is the smallest and least surveyed of the analysis units, occurring mostly within Tribal lands. Occurrences within this analysis unit are not influenced by high levels of human impact (e.g., urbanization). Instead, impacts from drought, fire, and debris flows are the main threats affecting resiliency in this analysis unit. Nonnative species are present in the North and South Forks of the San Jacinto River, which may have contributed to the possible extirpation of Santa Ana speckled dace from these sites. The analysis unit has 2.8 miles of occupied habitat, which again rates as low because there are less than 20 stream miles of occupied habitat, with one known occupied occurrence. Other occurrences were reported as extant in the recent past but are now possibly extirpated even though these areas are still considered suitable. Habitat quality within the analysis unit was rated as low to moderate because some of the essential features, including habitat free of nonnative species and adequate flows, are degraded. Connectivity is considered low to moderate because the one extant occurrence is connected to historically occupied habitat that could become occupied again in the future, making dispersal possible between these areas. Size of population was rated as low due to only one known extant occurrence with flows becoming very small during dry conditions, limiting dace abundance within the analysis unit.

Because of the current condition due to the threats described above, we determined these portions may have a different status than the rest of the range and then considered whether these portions may be significant. Collectively, the Los Angeles River analysis unit and the San Jacinto River analysis unit account for 3 of 17 (17.6 percent) of occurrences, and account for 23.5 percent of occupied river miles within the range of the Santa Ana speckled dace. Therefore, together these portions collectively comprise only about 18 percent of overall Santa Ana speckled dace occurrences and account for less than 25 percent of total river miles within the species' range. The San Jacinto River analysis unit is spatially disjunct and may have unique genetic alleles within the range of the species, because of its location mostly within Tribal lands that do not experience the effects of human activities such as urbanization or recreation. However, both analysis units have relatively lower habitat quality compared to the other two analysis units. Thus, the Los Angeles River analysis unit and the San Jacinto River analysis unit do not constitute a large geographic area relative to the other two analysis units, nor do we find them to be individually or collectively significant. We found no other biologically meaningful portions of the Santa Ana speckled dace's range where the biological condition of the species may differ from its condition elsewhere in its range such that the status of the species in that portion may differ from any other portion of the species' range.

Therefore, no portion of the species' range provides a basis for determining that the species is currently in danger of extinction in a significant portion of its range, and we determine that the species is likely to become in danger of extinction within the foreseeable future throughout all of its range. This does not conflict with the courts' holdings in *Desert Survivors v. U.S. Department of the Interior*, 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018) and *Center for Biological Diversity v. Jewell*, 248 F. Supp. 3d 946, 959 (D. Ariz. 2017) because, in reaching this conclusion, we did not apply the aspects of the Final Policy, including the definition of “significant” that those court decisions held to be invalid.

Determination of Status

Our review of the best available scientific and commercial information indicates that the Santa Ana speckled dace meets the Act's definition of a threatened species. Therefore, we propose to list the Santa Ana speckled

dace as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition as a listed species, planning and implementation of recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, foreign governments, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies, including the Service, and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Section 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

The recovery planning process begins with development of a recovery outline made available to the public soon after a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions while a recovery plan is being developed. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) may be established to develop and implement recovery plans. The recovery planning process involves the identification of actions that are necessary to halt and reverse the species' decline by addressing the threats to its survival and recovery. The recovery plan identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened (“downlisting”) or removal from protected status (“delisting”), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing

recovery tasks. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery outline, draft recovery plan, final recovery plan, and any revisions will be available on our website as they are completed (<https://www.fws.gov/program/endangered-species>), or from our Carlsbad Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (e.g., restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

If this species is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the State of California would be eligible for Federal funds to implement management actions that promote the protection or recovery of the Santa Ana speckled dace. Information on our grant programs that are available to aid species recovery can be found at: <https://www.fws.gov/service/financial-assistance>.

Although the Santa Ana speckled dace is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7 of the Act is titled Interagency Cooperation and mandates all Federal action agencies to use their existing authorities to further the conservation purposes of the Act and to ensure that their actions are not likely to jeopardize the continued existence of listed species or adversely modify critical habitat. Regulations implementing section 7 are codified at 50 CFR part 402.

Section 7(a)(2) states that each Federal action agency shall, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Each Federal agency shall review its action at the earliest possible time to determine whether it may affect listed species or critical habitat. If a determination is made that the action may affect listed species or critical habitat, formal consultation is required (50 CFR 402.14(a)), unless the Service concurs in writing that the action is not likely to adversely affect listed species or critical habitat. At the end of a formal consultation, the Service issues a biological opinion, containing its determination of whether the Federal action is likely to result in jeopardy or adverse modification.

In contrast, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. Although the conference procedures are required only when an action is likely to result in jeopardy or adverse modification, action agencies may voluntarily confer with the Service on actions that may affect species proposed for listing or critical habitat proposed to be designated. In the event that the subject species is listed or the relevant critical habitat is designated, a conference opinion may be adopted as a biological opinion and serve as compliance with section 7(a)(2) of the Act.

Examples of discretionary actions for the Santa Ana speckled dace that may be subject to conference and consultation procedures under section 7 are land management or other landscape-altering activities on Federal lands administered by the U.S. Forest Service and the U.S. Army Corps of Engineers, as well as actions on State, Tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat—and actions

on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation. Federal agencies should coordinate with the local Service Field Office (see **FOR FURTHER INFORMATION CONTACT**, above) with any specific questions on section 7 consultation and conference requirements.

II. Protective Regulations Under Section 4(d) of the Act for the Santa Ana Speckled Dace

Background

Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary shall issue such regulations as she deems necessary and advisable to provide for the conservation of species listed as threatened species. Conservation is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of the Act states that the Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants. With these two sentences in section 4(d), Congress delegated broad authority to the Secretary to determine what protections would be necessary and advisable to provide for the conservation of threatened species, and even broader authority to put in place any of the section 9 prohibitions for a given species.

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have upheld, as a valid exercise of agency authority, rules developed under section 4(d) that included limited prohibitions against takings (see *Alsea Valley Alliance v. Lautenbacher*, 2007 WL 2344927 (D. Or. 2007); *Washington Environmental Council v. National Marine Fisheries Service*, 2002 WL 511479 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana v. Verity*, 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, “once an animal is on the threatened list, the Secretary has an almost infinite number of options available to [her] with regard to the permitted activities for those species.

[She] may, for example, permit taking, but not importation of such species, or [she] may choose to forbid both taking and importation but allow the transportation of such species” (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

The provisions of this species’ proposed protective regulations under section 4(d) of the Act are one of many tools that we would use to promote the conservation of the Santa Ana speckled dace. The proposed protective regulations would apply only if and when we make final the listing of the Santa Ana speckled dace as a threatened species. Nothing in 4(d) rules change in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or the ability of the Service to enter into partnerships for the management and protection of the Santa Ana speckled dace. As mentioned previously in Available Conservation Measures, section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, even before the listing of any species or the designation of its critical habitat is finalized, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. These requirements are the same for a threatened species regardless of what is included in its 4(d) rule.

Section 7 consultation is required for Federal actions that “may affect” a listed species regardless of whether take caused by the activity is prohibited or excepted by a 4(d) rule (“blanket rule” or species-specific 4(d) rule). A 4(d) rule does not change the process and criteria for informal or formal consultations and does not alter the analytical process used for biological opinions or concurrence letters. For example, as with an endangered species, if a Federal agency determines that an action is “not likely to adversely affect” a threatened species, this will require the Service’s written concurrence (50 CFR 402.13(c)). Similarly, if a Federal agency determines that an action is “likely to adversely affect” a threatened species, the action will require formal consultation with the Service and the

formulation of a biological opinion (50 CFR 402.14(a)). Because consultation obligations and processes are unaffected by 4(d) rules, we may consider developing tools to streamline future intra-Service and inter-Agency consultations for actions that result in forms of take that are not prohibited by the 4(d) rule (but that still require consultation). These tools may include consultation guidance, Information for Planning and Consultation effects determination keys, template language for biological opinions, or programmatic consultations.

Provisions of the Proposed 4(d) Rule for the Santa Ana Speckled Dace

Exercising the Secretary’s authority under section 4(d) of the Act, we have developed a proposed rule that is designed to address the Santa Ana speckled dace’s conservation needs. As discussed above under Summary of Biological Status and Threats, we have concluded that the Santa Ana speckled dace is likely to become in danger of extinction within the foreseeable future primarily due to impacts to habitat, wildfire, climate change, nonnative species, and effects of small population size. Section 4(d) requires the Secretary to issue such regulations as she deems necessary and advisable to provide for the conservation of each threatened species and authorizes the Secretary to include among those protective regulations any of the prohibitions that section 9(a)(1) of the Act prescribes for endangered species. We are not required to make a “necessary and advisable” determination when we apply or do not apply specific section 9 prohibitions to a threatened species (In re: Polar Bear Endangered Species Act Listing and 4(d) Rule Litigation, 818 F. Supp. 2d 214, 228 (D.D.C. 2011) (citing *Sweet Home Chapter of Cmty. for a Great Or. v. Babbitt*, 1 F.3d 1, 8 (D.C. Cir. 1993), *rev’d on other grounds*, 515 U.S. 687 (1995))). Nevertheless, even though we are not required to make such a determination, we have chosen to be as transparent as possible and explain below why we find that, if finalized, the protections, prohibitions, and exceptions in this proposed rule as a whole satisfy the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of the Santa Ana speckled dace.

The protective regulations we are proposing for the Santa Ana speckled dace incorporate prohibitions from section 9(a)(1) of the Act to address the threats to the species. The prohibitions of section 9(a)(1) of the Act, and implementing regulations codified at 50

CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed any of the following acts with regard to any endangered wildlife: (1) import into, or export from, the United States; (2) take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect) within the United States, within the territorial sea of the United States, or on the high seas; (3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such wildlife that has been taken illegally; (4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity; or (5) sell or offer for sale in interstate or foreign commerce. This proposed protective regulation includes all of these prohibitions because the Santa Ana speckled dace is at risk of extinction within the foreseeable future and putting these prohibitions in place will help to prevent further declines, preserve the species’ remaining populations, slow its rate of decline, and decrease synergistic, negative effects from other ongoing or future threats.

In particular, this proposed 4(d) rule would provide for the conservation of the Santa Ana speckled dace by prohibiting the following activities, unless they fall within specific exceptions or are otherwise authorized or permitted: importing or exporting; take; possession and other acts with unlawfully taken specimens; delivering, receiving, carrying, transporting, or shipping in interstate or foreign commerce in the course of commercial activity; or selling or offering for sale in interstate or foreign commerce.

Under the Act, “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Some of these provisions have been further defined in regulations at 50 CFR 17.3. Take can result knowingly or otherwise, by direct and indirect impacts, intentionally or incidentally. Regulating take would help preserve the species’ remaining populations, slow their rate of decline, and decrease cumulative effects from other ongoing or future threats. Therefore, we propose to prohibit take of the Santa Ana speckled dace, except for take resulting from those actions and activities specifically excepted by the 4(d) rule.

Exceptions to the prohibition on take would include all the general exceptions to the prohibition on take of endangered wildlife, as set forth in 50

CFR 17.21, and additional exceptions, as described below.

Despite these prohibitions regarding threatened species, we may under certain circumstances issue permits to carry out one or more otherwise-prohibited activities, including those described above. The regulations that govern permits for threatened wildlife state that the Director may issue a permit authorizing any activity otherwise prohibited with regard to threatened species. These include permits issued for the following purposes: for scientific purposes, to enhance propagation or survival, for economic hardship, for zoological exhibition, for educational purposes, for incidental taking, or for special purposes consistent with the purposes of the Act (50 CFR 17.32). The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

In addition, to further the conservation of the species, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, a State conservation agency, or a federally recognized Tribe, who is designated by their agency or Tribe for such purposes, may, when acting in the course of their official duties, take threatened wildlife without a permit if such action is necessary to: (i) Aid a sick, injured, or orphaned specimen; or (ii) Dispose of a dead specimen; or (iii) Salvage a dead specimen that may be useful for scientific study; or (iv) Remove specimens that constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live capturing and releasing the specimen unharmed, in an appropriate area.

We recognize the special and unique relationship that we have with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist us in implementing all aspects of the Act. In this regard, section 6 of the Act provides that we must cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State

conservation agency that is a party to a cooperative agreement with us in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, would be able to conduct activities designed to conserve the Santa Ana speckled dace that may result in otherwise prohibited take without additional authorization.

The proposed 4(d) rule would also provide for the conservation of the species by allowing exceptions that incentivize conservation actions or that, while they may have some minimal level of take of the Santa Ana speckled dace, are not expected to rise to the level that would have a negative impact (*i.e.*, would have only de minimis impacts) on the species' conservation. The proposed exceptions to the 4(d) rule's prohibitions include incidental take caused by: (1) forest or wildland management activities that are intended to minimize negative impacts from forest management rangewide, including activities conducted to maintain the minimum clearance (defensible space) requirement from structures to reduce wildfire risks consistent with State fire codes or local fire codes or ordinances; (2) habitat restoration and enhancement activities conducted as part of nonpermitted Federal or State habitat restoration plans that are for the benefit of the Santa Ana speckled dace or its habitat; and (3) removal of nonnative species (including removal of invasive, nonnative plants and aquatic predators) for the benefit of the Santa Ana speckled dace and its habitat. These proposed exceptions, as discussed below, are expected to have negligible or beneficial impacts to the Santa Ana speckled dace and its habitat.

Proposed Species-Specific Incidental Take Exceptions

We propose to except from the take prohibitions in the 4(d) rule those forest or wildland management activities that are intended to minimize negative impacts from forest management rangewide. Since the listing of the Santa Ana sucker (*Catostomus santaanae*; see 65 FR 19686, April 12, 2000), a co-occurring species with the Santa Ana speckled dace, the U.S. Forest Service has adopted additional guidance and proposals to protect the Santa Ana sucker, and effects of management plans are expected to also result in beneficial conservation effects for the Santa Ana speckled dace. These excepted activities would include activities specifically conducted to maintain the defensible space requirement from structures; are intended to reduce wildfire risk, which would protect Santa Ana speckled dace

habitat; and would provide enhanced public safety against fires.

We also propose to except from the take prohibitions in the 4(d) rule those habitat restoration and enhancement activities that include, but are not limited to, trash removal, removal of recreational dams, restoration of waterways from recreational mining, and dam operations that are beneficial to the Santa Ana speckled dace as outlined in a Service-approved plan (*e.g.*, a conservation plan developed in coordination with the Service where take has not been covered but where activities would lead to net conservation benefits for the Santa Ana speckled dace). Such measures would be implemented to minimize impacts to the Santa Ana speckled dace and its habitat, and are expected to result in the restoration and enhancement of habitat quality features such as natural stream flow, sediment transport, stream morphology, and water quality within the species' range.

In addition, we propose to except from the take prohibitions in the 4(d) rule the removal of nonnative species, including noxious weed control and other vegetation reduction in the course of habitat management and restoration to benefit the Santa Ana speckled dace. Activities may include mechanical and chemical control, provided these activities are conducted in a manner consistent with Federal and applicable State laws. Activities may also include removal or eradication of nonnative animal species, including, but not limited to, catfish, bass, crayfish, and bullfrogs. The use of electrofishing for eradication of predators would have to be approved by the Service prior to being implemented.

III. Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as: The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection; and specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the

Secretary (*i.e.*, range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.*, migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that each Federal action agency ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation also does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Rather, designation requires that, where a landowner requests Federal agency funding or authorization for an action that may affect an area designated as critical habitat, the Federal agency consult with the Service under section 7(a)(2) of the Act. If the action may affect the listed species itself (such as for occupied critical habitat), the Federal agency would have already been required to consult with the Service even absent the designation because of the requirement to ensure that the action is not likely to jeopardize the continued existence of the species. Even if the Service were to conclude after consultation that the proposed activity is likely to result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement "reasonable and prudent alternatives" to avoid

destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat).

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information from the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions set forth in the 4(d) rule. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of the species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available at the time of those planning efforts calls for a different outcome.

Critical Habitat Determinability

Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

- (i) Data sufficient to perform required analyses are lacking, or
- (ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of "critical habitat."

We reviewed the available information pertaining to the biological needs of the Santa Ana speckled dace and habitat characteristics where this species is located. A careful assessment of the economic impacts that may occur due to a critical habitat designation is still ongoing, and we are in the process of acquiring the complex information needed to perform that assessment. Therefore, due to the current lack of data sufficient to perform required analyses, we conclude that the designation of critical habitat for the Santa Ana speckled dace is not

determinable at this time. The Act allows the Service an additional year to publish a critical habitat designation that is not determinable at the time of listing (16 U.S.C. 1533(b)(6)(C)(ii)).

Required Determinations

Clarity of the Proposed Rule

We are required by E.O.s 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

- (1) Be logically organized;
- (2) Use the active voice to address readers directly;
- (3) Use clear language rather than jargon;
- (4) Be divided into short sections and sentences; and
- (5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in ADDRESSES. To better help us revise this rulemaking, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

Regulations adopted pursuant to section 4(a) of the Act are exempt from the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 et seq.) and do not require an environmental analysis under NEPA. We published a notice outlining our reasons for this determination in the Federal Register on October 25, 1983 (48 FR 49244). This includes listing, delisting, and reclassification rules, as well as critical habitat designations and species-

specific protective regulations promulgated concurrently with a decision to list or reclassify a species as threatened. The courts have upheld this position (e.g., Douglas County v. Babbitt, 48 F.3d 1495 (9th Cir. 1995) (critical habitat); Center for Biological Diversity v. U.S. Fish and Wildlife Service, 2005 WL 2000928 (N.D. Cal. Aug. 19, 2005) (concurrent 4(d) rule)).

Government-to-Government Relationship With Tribes

In accordance with the President’s memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951, May 4, 1994), E.O. 13175 (Consultation and Coordination with Indian Tribal Governments), the President’s memorandum of November 30, 2022 (Uniform Standards for Tribal Consultation; 87 FR 74479, December 5, 2022), and the Department of the Interior’s manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations (ANCs) on a government-to-government basis. In accordance with Secretary’s Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We will continue to work with Tribal entities during the development of recovery actions for the Santa Ana speckled dace.

References Cited

A complete list of references cited in this rulemaking is available on the internet at <https://www.regulations.gov> and upon request from the Carlsbad Fish and Wildlife Office (see FOR FURTHER INFORMATION CONTACT).

Authors

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service’s Species Assessment Team and the Carlsbad Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

Accordingly, FWS proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

- 1. The authority citation for part 17 continues to read as follows:
Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.
- 2. In § 17.11, amend the table in paragraph (h) by adding an entry for “Dace, Santa Ana speckled” to the List of Endangered and Threatened Wildlife in alphabetical order under FISHES to read as follows:
§ 17.11 Endangered and threatened wildlife.
* * * * *
(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
FISHES				
*	*	*	*	*
Dace, Santa Ana speckled	Rhinichthys gabrielino	Wherever found	T	[Federal Register citation when published as a final rule]; 50 CFR 17.44(II). ^{4d}
*	*	*	*	*

- 3. Further amend § 17.44, as proposed to be amended at 88 FR 88338 (December 21, 2023), by adding and

reserving paragraphs (jj) and (kk), and adding paragraph (ll) to read as follows:

- § 17.44 Special rules—fishes.**
* * * * *
(jj)–(kk) [Reserved]

(ll) Santa Ana speckled dace (*Rhinichthys gabrielino*).

(1) *Prohibitions.* The following prohibitions that apply to endangered wildlife also apply to the Santa Ana speckled dace. Except as provided under paragraph (ll)(2) of this section and §§ 17.4 and 17.5, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to this species:

(i) Import or export, as set forth at § 17.21(b) for endangered wildlife.

(ii) Take, as set forth at § 17.21(c)(1) for endangered wildlife.

(iii) Possession and other acts with unlawfully taken specimens, as set forth at § 17.21(d)(1) for endangered wildlife.

(iv) Interstate or foreign commerce in the course of commercial activity, as set forth at § 17.21(e) for endangered wildlife.

(v) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(2) *Exceptions from prohibitions.* In regard to this species, you may:

(i) Conduct activities as authorized by a permit under § 17.32.

(ii) Take, as set forth at § 17.21(c)(3) and (4) for endangered wildlife.

(iii) Take, as set forth at § 17.31(b).

(iv) Possess and engage in other acts with unlawfully taken wildlife, as set forth at § 17.21(d)(2) for endangered wildlife.

(v) Take incidental to an otherwise lawful activity caused by:

(A) Forest or wildland management activities that are intended to minimize negative impacts from forest management rangewide, including activities specifically conducted to maintain the defensible space requirement from structures.

(B) Habitat restoration and enhancement activities, including, but not limited to, trash removal, removal of recreational dams, restoration of waterways from recreational mining, and dam operations that are beneficial to the Santa Ana speckled dace. Such measures must be implemented in accordance with a conservation plan developed in coordination with the Service; must minimize impacts to the

Santa Ana speckled dace and its habitat; and should result in the restoration and enhancement of habitat features such as natural stream flow, sediment transport, stream morphology, and water quality within the species' range.

(C) Removal of nonnative species, including noxious weed control and other vegetation reduction, in the course of habitat management and restoration to benefit the Santa Ana speckled dace. Activities may include mechanical and chemical control, provided these activities are conducted in a manner consistent with Federal and applicable State laws. Activities may also include removal or eradication of nonnative animal species, including, but not limited to, catfish, bass, crayfish, and bullfrogs; however, the Service must approve the use of electrofishing for eradication of predators prior to implementation.

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2024–17237 Filed 8–12–24; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register

Vol. 89, No. 156

Tuesday, August 13, 2024

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Information Collection Generic Clearance Request for USAID Monitoring, Evaluation and Research Under the Foreign Assistance Act

AGENCY: Agency for International Development (USAID).

ACTION: Notice of information collection; request for comment.

SUMMARY: USAID invites public comment on our intent to request the Office of Management and Budget's (OMB's) approval for a new information collection. USAID proposes a generic clearance to collect feedback and conduct research, monitoring and evaluations of programs and policies through surveys, interviews, and focus groups to understand effectiveness of programs and policies and to discern how programs are affected by crises and other unexpected changes in context. This will help the Agency make better decisions to improve the effectiveness of programs and achieve development and foreign assistance objectives through activities pursuant to Foreign Assistance Act, including under rapidly changing conditions. This will also help safeguard U.S. National Security interests and ensure accountability to U.S. taxpayers. Information collected from USAID partners, stakeholders and program participants is a valuable resource to ensure the Agency programs and operations remain safe, relevant, efficient and effective.

DATES: All comments should be submitted within 30 calendar days from 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 by using the search function.

FOR FURTHER INFORMATION CONTACT: Elizabeth Roen, eroen@usaid.gov, 202–712–1493.

SUPPLEMENTARY INFORMATION: USAID is requesting a general clearance to collect feedback and conduct research, monitoring and evaluations of programs and policies through surveys, interviews, and focus groups to understand effectiveness of programs and policies and to discern how programs are affected by crises and other unexpected changes in context. USAID conducts programs outside of the United States and will collect data from approximately 450,000 respondents per year, made up primarily of foreign nationals participating in USAID programs, other stakeholders local to the programs, and federal contractors and grantees implementing the programs. The collection of personally identifiable information will be kept to the minimum. The total estimated number of annual burden hours is 225,000 hours. USAID, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on the proposed information collection. In accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), USAID is providing the general public and Federal agencies with an opportunity to comment on the proposed collection of information. This proposed information collection was previously published in the **Federal Register** (89 FR 48550) on June 7, 2024. This notice allows for an additional 30 days for public comments.

OMB Control Number: To be issued by OMB.

Elizabeth Roen,

Deputy Director, Office of Learning, Evaluation and Research, Bureau for Planning, Learning and Resource Management, USAID.

[FR Doc. 2024–18018 Filed 8–12–24; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–LP–24–0012]

Greenhouse Gas Technical Assistance Provider and Third-Party Verifier Program Advisory Council: Notice of Intent To Establish Charter and Solicitation for Nominations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of intent to establish charter and call for nominations.

SUMMARY: This notice announces the U.S. Department of Agriculture (USDA) Secretary's intent to establish the Greenhouse Gas Technical Assistance Provider and Third-Party Verifier Program Advisory Council (Council) under the Growing Climate Solutions Act and in accordance with the Federal Advisory Committee Act (FACA), solicits nominations for membership on the Council, and solicits nominations for a pool of candidates to fill future unexpected vacancies in any of the position categories should that occur.

DATES: The Agricultural Marketing Service (AMS) invites interested persons to submit comments on this notice. Comments will be accepted until 11:59 p.m. ET on October 15, 2024, via <https://www.regulations.gov>: Document # AMS–LP–24–0012. Nomination packages including a cover letter to the Secretary, the nominee's typed resume or curriculum vitae, and a completed USDA Advisory Committee Membership Background Information Form AD–755 must be postmarked on or before October 15, 2024.

ADDRESSES: Nomination packages can be submitted electronically by email to Sasha.Strohm@usda.gov, or mailed to: Sasha Strohm, U.S. Department of Agriculture, 1400 Independence Avenue SW, Stop 0249, Washington, DC 20250, Attn: GCSA Advisory Council. Electronic submittals are preferred.

FOR FURTHER INFORMATION CONTACT: Sasha Strohm by telephone at 202–720–5705 or email at Sasha.Strohm@usda.gov.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Growing Climate Solutions Act (GCSA) directs the Secretary of USDA to establish a non-discretionary advisory

committee to be known as the “Greenhouse Gas Technical Assistance Provider and Third-Party Verifier Program Advisory Council” (Council). The GCSA was signed into law as part of the Consolidated Appropriations Act of 2023 (Pub. L. 117–328) and is codified in relevant part at 7 U.S.C. 6712. The GCSA specifies that the Council shall be subject to the Federal Advisory Committee Act (5 U.S.C. 10, 1001–1014), except that section 14(a)(2) of that Act (5 U.S.C. 1013(a)(2)), concerning the automatic termination of advisory committees, shall not apply. The purpose of the Council is to support the newly established Greenhouse Gas Technical Assistance Provider and Third-Party Verifier Program (Program) in facilitating the participation in voluntary environmental credit markets of farmers, ranchers, and private forest landowners, including beginning, socially disadvantaged, limited resource, and veteran farmers.

Key activities of the Council include periodically reviewing and recommending any appropriate changes to the protocols recognized by the Program for generating environmental credits; the required qualifications for entities that provide technical assistance to farmers, ranchers, and landowners; and the activities available to farmers, ranchers, and landowners under the Program to prevent, reduce, or mitigate greenhouse gas emissions.

The Council responsibilities include advising the Secretary regarding: (1) current methods used in voluntary environmental credit markets to quantify and verify the prevention, reduction, or mitigation of greenhouse gas emissions; and (2) ways to reduce the barriers to entry and transaction costs associated with such markets. Finally, the Council will submit an initial assessment to Congress about the Program, and it will consult with the Secretary regarding subsequent periodic assessments. For more information about the Council’s duties and functions, interested persons are encouraged to review the GCSA, as set forth in 7 U.S.C. 6712, particularly subsections (f) and (g) of the law.

II. Structure

The Secretary will appoint the Council members. The GCSA requires that the Council be broadly representative of the agriculture and private forest sectors; include beginning, socially disadvantaged, limited resource, and veteran farmers, ranchers, and private forest landowners; and be composed of not less than 51 percent farmers, ranchers, or private forest landowners.

In accordance with the GCSA, members appointed shall include:

- Up to four representatives from USDA, Environmental Protection Agency, and National Institute of Standards and Technology, including:
 - Not more than two from USDA, as determined by the Secretary;
 - Not more than one from the Environmental Protection Agency, as determined by the Administrator; and
 - Not more than one from the National Institute of Standards and Technology.

The selection process for the Federal employee seats referenced above consists of the submission of a memorandum/letter from USDA to the Agency Head/Department Secretary requesting the agency/department identify a representative to serve on the Council by a certain date. The corresponding agency would respond with a letter of recommendation to USDA.

- Not fewer than twelve representatives of the agriculture industry (of which not fewer than six must be active farmers and ranchers).
- Not fewer than four representatives of private forest landowners or the forestry and forest products industry.
- Up to four representatives of the relevant scientific research community, including:
 - Not fewer than two representatives from land-grant colleges and universities (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)

■ Of which one shall be a representative of a college or university eligible to receive funds under the Act of August 30, 1890 (commonly known as the “Second Morrill Act”) (26 Stat. 417, chapter 841; 7 U.S.C. 321 *et seq.*), including Tuskegee University.

- Up to two experts or professionals, serving as Special Government Employees (SGE), familiar with voluntary environmental credit markets and the verification requirements in those markets.

- Up to three public representatives (*i.e.*, members of nongovernmental or civil society organizations with relevant expertise):

- Of which not fewer than one shall represent the interests of socially disadvantaged groups.

- Up to three representatives from private sector businesses or organizations that participate in voluntary environmental credit markets.

The Council will be balanced in its membership in terms of the points of view represented and the functions to be performed. Fresh points of view are

encouraged through staggered membership terms and limiting the number of years a member may serve on the Council. In accordance with the GCSA, a member term shall be 2 years, except that of the members first appointed:

- not fewer than 8 members shall serve for a term of 1 year;
- not fewer than 12 members shall serve for a term of 2 years; and
- not fewer than 12 members shall serve for a term of 3 years.

After a member’s initial term on the Council, the member may serve not more than 4 additional 2-year terms.

The Council shall meet not less frequently than annually. During the 90-day period beginning on the date on which the members are appointed, the Council shall hold an initial meeting. All meetings are open to the public in accordance with the FACA and its implementing regulations and guidelines. Pursuant to the GCSA, the Agriculture Secretary shall designate a member of the Council to serve as the Chair.

A permanent Federal employee is to be appointed in accordance with agency procedures and will serve as the Designated Federal Official (DFO). The DFO will approve the Council’s and subcommittees’ meetings, prepare and approve all meeting agendas, attend all council and subcommittee meetings, adjourn any meeting when the DFO determines adjournment to be in the public interest, and chair meetings when directed to do so by the official to whom the Council reports.

The Agricultural Marketing Service (AMS) has the authority to create subcommittees. Subcommittees must report back to the parent Council and must not provide advice or work products directly to the agency.

III. Compensation

In accordance with the GCSA, members of the Council shall serve without compensation. However, members may be reimbursed for travel expenses, including per diem instead of subsistence, while engaged in the performance of duties away from their homes or regular places of business. All travel for Council business must be approved in advance by the DFO.

IV. Nominations

AMS will consider nominations of all qualified individuals to ensure the Council includes the areas of subject matter expertise noted above (see “Structure”). Individuals may nominate themselves or other individuals, and professional associations and organizations may nominate one or

more qualified persons for membership on the Council. Nominations must state that the nominee is willing to serve as a member of the Council.

A nomination package should include the following information for each nominee:

(1) A completed USDA Advisory Committee Membership Background Information Form AD-755, (<https://www.usda.gov/sites/default/files/documents/ad-755.pdf>).

(2) A curriculum vitae and/or resume, and

(3) A biographical sketch of the nominee (cover letter) explaining which group the nominee would represent (see "Structure"), how they are qualified to represent that group, and why they want to serve on the Council.

The following is optional:

- A letter of nomination stating the nominee's name, affiliation, and contact information, the basis for the nomination (*i.e.*, what specific attributes recommend him/her for service in this capacity), and the nominee's field(s) of expertise.

Equal opportunity practices in accordance with USDA's policies will be followed in all member appointments to the Council. To ensure that the recommendations of the Council consider the needs of the diverse groups served by USDA, membership shall include, to the extent practicable, individuals with demonstrated ability to represent the many communities, identities, races, ethnicities, backgrounds, abilities, cultures, and beliefs of the American people, including underserved communities.

USDA prohibits discrimination in all of its programs and activities on the basis of race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, political beliefs, income derived from a public assistance program, 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).

The Charter and additional information on the Council will be available on the website at: <https://www.ams.usda.gov/services/GCSA> or may be requested by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Dated: August 7, 2024.

Cikena Reid,

USDA Committee Management Officer.

[FR Doc. 2024-17938 Filed 8-12-24; 8:45 am]

BILLING CODE 3410-02-P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by September 12, 2024 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Housing Service

Title: 7 CFR part 1924—A, Planning and Performing Construction and Other Development.

OMB Control Number: 0575-0042.

Summary of Collection: The Rural Housing Service (RHS) is the credit Agency for rural housing and community development within Rural Development of the United States Department of Agriculture. The Agency offers a supervised credit program to build modest housing and essential community facilities in rural areas. This regulation prescribes the policies and

responsibilities, including the information and collection necessary to demonstrate compliance with applicable acts for planning and performing development work for these facilities. Section 501 of Title V of the Housing Act of 1949, as amended, authorizes the Secretary of Agriculture to extend financial assistance to construct, improve, alter, repair, replace, or rehabilitate dwellings, farm buildings and/or related facilities to provide decent, safe, sanitary living conditions and adequate farm buildings and other structures in rural areas. Section 506 of the Act requires that all new buildings and repairs shall be constructed in accordance with plans and specifications as required by the Secretary and that such construction be supervised and inspected. Section 509 of the Act grants the Secretary the power to determine and prescribe the standards of adequate farm housing and other buildings. The Housing and Urban Rural Recovery Act of 1983 amended section 509(a) and section 515 to require residential buildings and related facilities comply with the standards prescribed by the Secretary of Agriculture, the standards prescribed by the Secretary of Housing and Urban Development, or the standards prescribed in any of the nationally recognized model building codes. Similar authorizations are contained in sections 303, 304, 306, and 339 of the Consolidated Farm and Rural Development Act, as amended, which authorized loans and grants for essential community services. In several sections of both acts, loan limitations are established as percentages of development costs, requiring careful monitoring of those costs. Also, the Secretary is authorized to prescribe regulations to ensure that Federal funds are not wasted or dissipated, and that construction will be undertaken economically and will not be of elaborate or extravagant design or materials.

Need and Use of the Information: RHS provides several forms to assist in the collection and submission of information. The information is used by Rural Development to determine whether a loan/grant can be approved, to ensure that Rural Development has adequate security for the loans financed, to provide for sound construction and development work, and to determine that the requirements of the applicable acts have been met. The information is also used to monitor compliance with the terms and conditions of the loan/grant and to monitor the prudent use of Federal funds.

Description of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local and Tribal Government.

Number of Respondents: 12,425.

Frequency of Responses: Recordkeeping; Report: On occasion.

Total Burden Hours: 51,572.

Rural Housing Service

Title: Multi-Family Housing Preservation and Revitalization Restructuring Demonstration Program (MPR).

OMB Control Number: 0575–0190.

Summary of Collection: The Consolidated Appropriations Act, 2016, Public Law No: 114–113, signed December 18, 2015, authorized USDA to conduct a demonstration program for the preservation and revitalization of the sections 514, 515, and 516 multi-family rental housing properties to restructure existing USDA/Multi-Family Housing (MFH) loans expressly to ensure the project has sufficient resources to provide safe and affordable housing for low-income residents and farm laborers under the programs authorized by the Housing Act of 1949, as amended (42 U.S.C. 1484, 1485 and 1486). The authorities to be demonstrated through this program will allow the Agency to test the efficacy of many of the preservation and revitalization tools identified in a fiscal year 2004 study report titled, “Rural Rental Housing—Comprehensive Property Assessment and Portfolio Analysis.” This report has subsequently been followed up in a report which again reviewed the section 515 Rural Rental Housing (RRH) loan portfolio and examined the degree of impact the repairs had made on the overall portfolio. It concluded that although the portfolio has been well managed, it has continued to mature and needs attention now to assure that it can continue to deliver decent, safe and sanitary affordable rental housing into the future.

Need and Use of the Information: The Agency will be collecting information from the proposer to evaluate the strengths and weaknesses to which the proposal concept possesses or lacks the attributes set forth in the proposed content and evaluation criteria. RHS will use the collected information to select the most feasible proposals that will enhance the Agency’s chances in accomplishing the demonstration objective. The information will be utilized to sustain and modify RHS’ current policies pertaining to revitalization and preservation of affordable rental housing in rural areas.

Description of Respondents: Private sector; Not-for-profit institutions.

Number of Respondents: 150.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 11,180.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–18016 Filed 8–12–24; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency’s estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by September 12, 2024 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business-Cooperative Service

Title: 7 CFR 4280–A, Rural Economic Development Loan and Grant Program.

OMB Control Number: 0570–0035.

Summary of Collection: The information collected is necessary to implement section 313(b) (2) of the Rural Electrification Act of 1936 (7 U.S.C. 940(c)) that established a loan and grant program. Rural Business Service (RBS) mission is to improve the quality of life in rural America by financing community facilities and businesses, providing technical assistance and creating effective strategies for rural development. Under this program, zero interest loans and grants are provided to electric and telecommunications utilities that have borrowed funds from RUS. The purpose of the program is to encourage these electric and telecommunications utilities to promote rural economic development and job creation projects such as business start-up costs, business expansion, community development, and business incubator projects.

Need and Use of the Information: The various forms and narrative requirements are no more than what a prudent commercial lender would require in the private sector if they processed an application without governmental assistance. The information requested is necessary and vital in order for RBS to be able to make prudent and financial analysis decisions. RBS has reviewed the program needs versus the burden placed on the public and is of the opinion that the program is necessary and will be beneficial to all parties involved. RBS, through its respective Program Management Division in Washington, DC, and its staff located in 47 State Offices throughout the United States, will be the primary user of the information collected. It is projected that 120 applicants per year will apply and be approved for a Rural Economic Development loan or grant. The information collected will be used to evaluate applications for funding consideration, conduct an environmental review, prepare legal documents, receive loan payments, oversee the operation of a revolving loan fund, monitor the use of RBS funds, and enforce other Government requirements such as compliance with civil rights regulations.

Description of Respondents: Not-for-profit Institutions; Business or other for-profit;

Number of Respondents: 120.

Frequency of Responses: Reporting: On Occasion, Annually.

Total Burden Hours: 4,742.

Rural Business-Cooperative Service

Title: Rural Micro-Entrepreneur Assistance Program.

OMB Control Number: 0570–0062.

Summary of Collection: The Rural Microentrepreneur Assistance Program (RMAP), authorized under section 6022 of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), which amends section subtitle D of the Consolidated Farm and Rural Development Act of 2008 (CON Act) provides rural microentrepreneurs with the skills necessary to establish new rural microenterprises, to provide continuing technical and financial assistance related to the successful operation of rural microenterprises, and to assist with the cost of providing other activities and services related to the successful operation of rural microenterprise development organizations (MDOs) and rural microenterprises. The Secretary makes direct loans to MDOs (MDOs that are participating in the program are referred to as “microlenders”) for the purpose of capitalizing microloan revolving funds to provide fixed interest rate business loans of \$50,000 or less to microentrepreneurs, as defined in the 2008 Farm Bill.

Need and Use of the Information: Microlenders seeking loans and/or grants will have to submit applications that include specified information, certifications, and agreements to the Agency. This information will be used to determine applicant eligibility and to ensure that funds are used for authorized purposes. Applications for continued participation in RMAP, during years 2 and 3, will include primarily any needed updates to the information submitted with the initial application.

Description of Respondents: Business or other for-profit; Not-for-profit Institutions; State, Local or Tribal governments.

Number of Respondents: 40.

Frequency of Responses: Reporting: Quarterly, Annually.

Total Burden Hours: 1,907.

Rural Business-Cooperative Service

Title: Advanced Biofuel Payment Program.

OMB Control Number: 0570–0063.

Summary of Collection: This Program, authorized under section 9005 of title IX of the Food, Conservation, and Energy Act of 2008 (2008 Farm Bill), authorizes the Rural Business-Cooperative Service (RBCS or the Agency), a Rural Development (RD) agency of the United States Department of Agriculture, to enter into contracts to make payments to

eligible entities to support and ensure an expanding production of advanced biofuels. Entities eligible to receive payments under the Program are producers of advanced biofuels that meet all of the requirements of the Program. Such entities can be an individual or legal entity, including a corporation, company, foundation, association, labor organization, firm, partnership, society, joint stock company, group of organizations, or non-profit that produces an advanced biofuel and that sells the advanced biofuel on the commercial market. The underlying regulation for this program is 7 CFR 4288, subpart B.

Need and Use of the Information: Advanced biofuel producers seeking to participate in the Program must enroll in the Program by submitting an application (Form RD 4288–1), which includes specific information about the producer and the producer's advanced biofuel biorefineries. This information will be used to determine whether the advanced biofuel producer is eligible to participate in the Program and whether the advanced biofuel being produced is eligible for payments under the Program. Form RD 4288–1 will also be used by the Agency to sign-up advance biofuel producers in subsequent fiscal years (FY) and to obtain information to help determine payment rates.

Once an advanced biofuel producer has been approved for participation in the Program, the producer and the Agency will enter into a contract (Form RD 4288–2). Once the contract is signed, the advanced biofuel producer will submit payment requests (Form RD–4288–3), preferably on a quarterly basis. The information in the payment request forms will be used by the Agency to determine payments to the advanced biofuel producers.

Description of Respondents: Business or other for-profit; Individuals.

Number of Respondents: 92.

Frequency of Responses: Reporting: Quarterly, Annually.

Total Burden Hours: 993.

Rural Business-Cooperative Service

Title: Guidelines for Designating Biobased Products for Federal Procurement.

OMB Control Number: 0570–0073.

Summary of Collection: Section 9002 of the Farm Security and Rural Investment Act (FSRIA) of 2002, as amended by the Food, Conservation, and Energy Act (FCEA) of 2008, the Agricultural Act of 2014, and the Agricultural Improvement Act of 2018 [7 U.S.C. 8102] provides for a Federal Preferred Procurement Program under which Federal agencies are required to

purchase biobased products, with certain exceptions. Product categories (which are generic groupings of products) are designated by rulemaking for preferred procurement. To qualify product categories for procurement under this Program, the statute requires that the Secretary of Agriculture consider information on the availability of biobased products, the economic and technological feasibility of using such products, and the costs of using such products.

Need and Use of the Information: The USDA BioPreferred Program provides that qualifying biobased products that fall under product categories (generic groups of biobased products) that have been designated for preferred procurement by rule making are required to be purchased by Federal agencies in lieu of their fossil energy-based counterparts, with certain limited exceptions. Further, USDA is required by section 9002 of the Farm Security and Rural Investment Act of 2002, as amended by the Food, Conservation, and Energy Act of 2008 and the Agricultural Act of 2014, and the Agricultural Improvement Act of 2018, to provide certain information on qualified biobased products to Federal agencies. To meet these statutory requirements, USDA will gather that information from manufacturers and vendors of biobased products. The information sought by USDA can be transmitted electronically using the website <http://www.biopreferred.gov>. If for any reason the requested information cannot be electronically transmitted, USDA will provide technical assistance to support the transmission of information to USDA. The information collected will enable USDA to meet statutory information requirements that will then permit USDA to designate product categories for preferred procurement under the BioPreferred Program.

Description of Respondents: Business or other for-profit.

Number of Respondents: 220.

Frequency of Responses: Recordkeeping; Reporting: Other (once).

Total Burden Hours: 8,800.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024–17989 Filed 8–12–24; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE**Submission for OMB Review;
Comment Request**

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (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; 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 September 12, 2024 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Utilities Service

Title: Accounting Requirements for RUS Electric and Telecommunications Borrowers.

OMB Control Number: 0572–0003.

Summary of Collection: The RUS Administrator, acting on behalf of the United States and the Secretary of Agriculture, is authorized and empowered by section 2a of the Rural Electrification Act of 1936 (RE Act), as amended to “make loans in the several States and Territories of the United States for rural electrification and for

the purpose of furnishing and improving electric and telephone service in rural areas, as provided in this chapter, and for the purpose of assisting electric borrowers to implement demand side management, energy conservation programs, and on-grid and off-grid renewable energy systems.” In accordance with section 2b of the RE Act, the Administrator may “make, or cause to be made, studies, investigations, and reports regarding matters, including financial, technological, and regulatory matters, affecting the condition and programs of electric, telecommunications, and economic development in rural areas, and publish and disseminate information with respect to the matters.”

The Rural Utilities Service (RUS or the Agency) is a credit agency of the United States Department of Agriculture which makes loans (direct and guaranteed) to finance electric and telecommunications facilities in rural areas. The RUS Electric Program is a leader in lending to upgrade, expand, maintain, and replace the vast rural American electric infrastructure. Electric loans are fully amortized over a period approximately equal to the useful life of the facilities financed by the loan, not to exceed 35 years. Borrowers typically draw down on approved loan funds over a 3-to-4-year period. There are approximately 614 active electric borrowers. The RUS Telecommunications Program makes loans to furnish and improve telecommunications services and other telecommunications purposes in rural areas. The Agency lends directly to rural telecommunications companies and guarantees loans made by other lenders, such as the Federal Finance Bank (FFB). Loans are amortized over the useful life of the facilities financed by the loan, not to exceed 35 years. Borrowers typically draw down on approved loan funds over a 3-to-4-year period. There are approximately 638 active telecommunications borrowers.

RUS provides financing through long-term loans to rural electric and telecommunications utilities. These loans are secured by a mortgage agreement pledging as collateral for all the borrowers' assets, including its real and personal property as well as its income and revenues. The Agency also guarantees loans to facilitate the obtaining of financing for electric and telecommunications facilities from non-RUS sources. Guaranteed loans may be obtained from any legally organized lending agency qualified to make, hold, and service the loan. All policies and

procedures of the Agency are applicable to a guaranteed loan.

Need and Use of the Information:

This collection is primarily a recordkeeping requirement. 7 CFR parts 1767 and 1770 do not impose information collection requirements for reporting to a Federal agency. Rather, they establish basic accounting requirements for the recording of financial information that must be available to the management, investors, and lenders of any business enterprise. There are many important financial considerations for the retention and preservation of accounting records. One of the most important considerations to RUS is that documentation be available so that the borrower's records may be audited for proper disbursements of funds. 7 CFR parts 1767 and 1770 prescribe accounting requirements that are unique to RUS borrowers. The Agency is requiring borrowers to establish an index of records, which any prudent business should be maintaining. The hours of burden to maintain this index are directly related to those portions of the accounting system that are unique to the Agency.

Description of Respondents: Not-for-profit institutions.

Number of Respondents: 1,252.

Frequency of Responses:

Recordkeeping: Reporting: On Occasion.

Total Burden Hours: 33,804.

Rural Utility Service

Title: High Energy Cost Grants Rural Communities.

OMB Control Number: 0572–0136.

Summary of Collection: The Rural Utilities Service (RUS), an agency delivering the United States Department of Agriculture's (USDA) Rural Development (RD) utilities programs, is authorized by the Rural Electrification Act of 1936 (RE Act) (7 U.S.C. 901 *et seq.*) as amended in November 2000, to create new grant and loan authority to assist rural communities with extremely high energy costs (Pub. L. 106–472). The amendment authorized the Secretary of USDA through RD to provide competitive grants for energy generation, transmission, or distribution facilities serving communities in which the average residential expenditure for home energy is at least 275 percent of the national average residential expenditure for home energy. The program is implemented under 7 CFR part 1709 and USDA grant regulations. Competitive grant applications are solicited through publication of a Notice of Funding Opportunity (NOFO) on *Grants.gov*.

Need and Use of the Information:

Information is collected by RUS from

applicants and grantees who may be one of the following: persons, States, political subdivisions of States and other entities organized under the laws of States, including for-profit and non-profit corporations, associations, partnerships, limited liability partnerships (LLPs) cooperatives, trusts, sole proprietorships, State and local governments (including independent state agencies or units of State or local governments), Indian tribes, other Tribal entities and Alaska Native Corporations.

Description of Respondents: Not-for-profit institutions; Businesses or other for-profits.

Number of Respondents: 40.

Frequency of Responses:

Recordkeeping: Reporting: On occasion.

Total Burden Hours: 826.

Rural Utilities Service

Title: 7 CFR part 1738 Rural Broadband Loans, Loan/Grant Combinations, and Loan Guarantees.

OMB Control Number: 0572-0154.

Summary of Collection: The Rural Utilities Service (RUS) is authorized by Title VI, Rural Broadband Access, of the Rural Electrification Act of 1936, as amended (RE Act), to provide loans, loan/grant combinations, and loan guarantees to fund the cost of construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural areas in the States and Territories of the United States. The regulation for this program, 7 CFR part 1738, prescribes the types of loans available, facilities financed, and eligible applicants, as well as minimum equity requirements to be considered for a loan. In addition, 7 CFR part 1738 outlines the process through which RUS will consider applicants under the priority consideration required in Title VI.

The term of the loan or loan/grant combination is based on the expected composite economic life based on the depreciation rates of the facilities financed. The term of the loan or loan/grant combination can be as high as 35 years. These loans are secured by a first lien on the borrower's broadband system. In the interest of protecting loan security and accomplishing the statutory objective of a sound program of rural broadband service access, Title VI of the RE Act further requires that RUS make or guarantee a loan only if there is reasonable assurance that the loan, together with all outstanding loans and obligations of the borrower, will be repaid in full within the time agreed; the information gathered in this collection will help RUS determine that reasonable assurance.

Need and Use of the Information: Lending entities who wish to participate in this program must submit an application and/or certain information to Rural Development (RD). This information will be used to determine an applicant's eligibility to borrow under the terms of the RE Act and that the applicant complies with statutory, regulatory, and administrative eligibility requirements for loan assistance. This information is also used by RUS to determine that the Government's security for loans is reasonably adequate and that the loans will be repaid within the time agreed.

Description of Respondents:

Individuals or Households.

Number of Respondents: 90.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 829.

Rural Utilities Service

Title: Technical Assistance and Training and Training for Innovative Regional Wastewater Treatment Solutions (TAT/RWTS) Pilot Grant Program.

OMB Control Number: 0572-0157.

Summary of Collection: Technical Assistance and Construction for Innovative Regional Wastewater Treatment Solutions (TAC-RWTS) grant program is a competitive grant program which the Rural Utilities Service (RUS) administers. The program is authorized pursuant to 5 U.S.C. 301; 7 U.S.C. 1989; 16 U.S.C. 1005; Division B, Title VII General Provisions, Section 783 of the Further Consolidated Appropriations Act, 2020 (Pub. L. 116-94); and Division BA, Title VII General Provisions, Section 771 of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260). The program is implemented through 7 CFR part 1775, Technical Assistance Grants, and the provisions of this NOFO. Other Federal statutes and regulations are listed at 7 CFR 1775.8, Other Federal statutes.

Need and Use of the Information: The RUS National Office staff will use the information collected to determine applicant eligibility, project feasibility, and the applicant's ability to meet the grant and regulatory requirements. Based on funding availability for each Fiscal Year and the dollar amount requested by applicants, it may not be possible to fund all applications for the amount requested. If a particular application/project cannot be funded for the full amount, the applicant will be requested to submit revised documents to reflect the revision in the scope of the project based on the amount that can be awarded. Failure to collect proper information could result in improper

determinations of eligibility, improper use of funds, or hindrances in making grants authorized by the TAC-RWTS program.

Description of Respondents: Not-for-profit institutions.

Number of Respondents: 9.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 423.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2024-18007 Filed 8-12-24; 8:45 am]

BILLING CODE 3410-15-P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No.: RUS-24-TELECOM-0025]

Notice of a Revision to a Currently Approved Information Collection

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Utilities Service's (RUS or the Agency), an agency with the United States Department of Agriculture, Rural Development, intention to request a revision to a currently approved information collection package for the Telecommunications System Construction Policies and Procedures. The Agency invites comments on this information collection for which the Agency intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by October 15, 2024 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Pamela Bennett, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, STOP 1522, South Building, Washington, DC 20250-1522. Telephone: (202) 720-9639. Email pamela.bennett@usda.gov.

SUPPLEMENTARY INFORMATION: The OMB regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Agency is submitting to OMB for revision.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) The accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent by the Federal eRulemaking Portal: Go to <https://www.regulations.gov> and, in the "Search" box, type in the Docket No. located at the beginning of this notice. A link to the Notice will appear. You may submit a comment here by selecting the "Comment" button or you can access the "Docket" tab, select the "Notice," and go to the "Browse & Comment on Documents" Tab. Here you may view comments that have been submitted as well as submit a comment. To submit a comment, select the "Comment" button, complete the required information, and select the "Submit Comment" button at the bottom. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's "FAQ" link at the bottom.

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, failure to provide data could result in program benefits being withheld or denied.

Title: Telecommunications System Construction Policies and Procedures.

OMB Control Number: 0572-0059.

Type of Request: Revision of a currently approved information collection.

Abstract: In order to facilitate the programmatic interest of the RE Act, and, in order to assure that loans made or guaranteed by the Agency are

adequately secured, the Agency, as a secured lender, has established certain forms for materials, equipment and construction of electric and telecommunications systems. The use of standard forms, construction contracts, and procurement procedures helps assure the Agency that appropriate standards and specifications are maintained, the Agency's loan security is not adversely affected; and the loan response. In an effort to improve customer service provided to RUS rural borrowers, the Agency continues to revise, consolidate, and/or streamline its current contracts and contracting procedures.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.32 hours per response.

Respondents: Public bodies, not for profits or Indian Tribes.

Estimated Number of Respondents: 1,435.

Estimated Total Annual Responses: 3,337.

Estimated Number of Responses per Respondent: 2.33.

Estimated Total Annual Burden on Respondents: 7,705 Hours.

Copies of this information collection can be obtained from Pamela Bennett, Rural Development Innovation Center—Regulations Management Division, USDA, 1400 Independence Avenue SW, South Building, Washington, DC 20250-1522. Email: pamela.bennett@usda.gov.

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.

Andrew Berke,

Administrator, Rural Utilities Service.

[FR Doc. 2024-18012 Filed 8-12-24; 8:45 am]

BILLING CODE 3410-15-P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No. RUS-24-WATER-0018]

Notice of Revision of a Currently Approved Information Collection

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 the Rural Utilities Service (RUS or Agency), an agency within the United States Department of Agriculture (USDA), Rural Development (RD), announces its intention to request a revision to a currently approved information collection package for Water and Waste

Disposal Loans and Grants (WWLG), Water and Waste Facility Loans and Grants to Alleviate Health Risks for Colonias, Water and Waste Facility Loans and Grants to Alleviate Health Risks on Tribal Lands, Emergency Community Water Assistance Grants (ECWAG), and Grants for Rural Alaskan Village (RAVG) programs. The Agency invites comments on this information collection for which it intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by October 15, 2024 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT:

Katherine Anne Mathis, RD Innovation Center—Regulations Management Division, U.S. Department of Agriculture, 1400 Independence Avenue SW, Washington, DC 20250, Telephone: 202-713-7565, email: Katherine.mathis@usda.gov.

SUPPLEMENTARY INFORMATION: The OMB regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Agency is submitting to OMB for extension.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be submitted electronically through the Federal eRulemaking Portal, [regulations.gov](https://www.regulations.gov). In the "Search for dockets and documents on agency actions" box enter the Docket No. RUS-24-WATER-0018 and click the "Search" button. From the search results, click on or locate the document title: "Notice of Revision of a Currently Approved Information Collection" and select the "Comment" button. Before inputting comments, commenters may

review the “Commenter’s Checklist” (optional). To submit a comment: Insert comments under the “Comment” title, click “Browse” to attach files (if available), input email address, select box to opt to receive email confirmation of submission and tracking (optional), select the box “I’m not a robot,” and then select “Submit Comment.” Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site’s “FAQ” link. All comments will be available for public inspection online at the Federal eRulemaking Portal (*regulations.gov*).

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. Data furnished by the applicants will be used to determine eligibility for program benefits. Furnishing the data is voluntary; however, failure to provide data could result in program benefits being withheld or denied.

Title: Water and Waste Disposal Loans and Grants, Water and Waste Facility Loans and Grants to Alleviate Health Risks for Colonias, Water and Waste Facility Loans and Grants to Alleviate Health Risks on Tribal Lands, Emergency Community Water Assistance Grants (ECWAG), and Grants for Rural Alaskan Village (RAVG) programs

OMB Control Number: 0572–0121.

Type of Request: Update of a currently approved information collection.

Abstract: The WWLG program provides funding for clean and reliable drinking water systems, sanitary sewage disposal, sanitary solid waste disposal, and storm water drainage to households and businesses in eligible rural areas. The Water and Waste Disposal Predevelopment Planning Grants (PPG) help eligible low-income communities plan and develop applications for proposed water or waste disposal projects. WWLG and PPG programs are implemented through 7 CFR part 1780.

The Water and Waste Facility Loans and Grants to Alleviate Health Risks programs are for Colonias or on Tribal Lands. These programs help get safe, reliable drinking water and waste disposal to low-income communities that face significant health risks. These programs are implemented through 7 CFR part 1777.

The ECWAG program helps eligible communities prepare, or recover from, an emergency that threatens the availability of safe, reliable drinking water. This program is implemented through 7 CFR part 1778.

The RAVG programs helps remote Alaskan villages provide safe, reliable drinking water and waste disposal systems for households and businesses. This program is implemented through 7 CFR part 1784.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 3.625 hours per response.

Respondents: For all programs except RAVG—public bodies, nonprofits, Federally-recognized tribes. For RAVG—Rural Alaskan Villages, State of Alaska for the benefit of a rural Alaskan Village or hub.

Estimated Number of Respondents: 656.

Estimated Number of Responses per Respondent: 45.893.

Estimated Number of Responses: 30,106.

Estimated Total Annual Burden on Respondents: 109,127 hours.

Copies of this information collection can be obtained from Katherine Anne Mathis, RD Innovation Center—Regulations Management Division, Telephone: 202–713–7565, email: Katherine.mathis@usda.gov.

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.

Andrew Berke,

Administrator, Rural Utilities Service, USDA Rural Development.

[FR Doc. 2024–18015 Filed 8–12–24; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF COMMERCE

Census Bureau

Census Scientific Advisory Committee

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of public virtual meeting.

SUMMARY: The Census Bureau is giving notice of a virtual meeting of the Census Scientific Advisory Committee (CSAC or Committee). The Committee will address policy, research, and technical issues relating to a full range of Census Bureau programs and activities, including decennial, economic, field operations, information technology, and statistics. Last minute changes to the schedule are possible, which could

prevent giving advance public notice of schedule adjustments.

DATES: The virtual meeting will be held on:

- Thursday, September 19, 2024, from 8:30 a.m. to 5:00 p.m. EDT, and
- Friday, September 20, 2024, from 8:30 a.m. to 2:30 p.m. EDT.

ADDRESSES: Please visit the Census Advisory Committee website at <https://www.census.gov/about/cac/sac/meetings/2024-09-meeting.html>, for the CSAC meeting information, including the agenda, and how to join the meeting.

FOR FURTHER INFORMATION CONTACT:

Shana Banks, Advisory Committee Branch Chief, Office of Program, Performance and Stakeholder Integration (PPSI), shana.j.banks@census.gov, Department of Commerce, Census Bureau, telephone 301–763–3815. For TTY callers, please use the Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Committee provides scientific and technical expertise to address Census Bureau program needs and objectives. The members of the CSAC are appointed by the Director of the Census Bureau. The Committee has been established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, App).

All meetings are open to the public. Public comments will be accepted in writing only to shana.j.banks@census.gov (subject line “2024 CSAC Fall Virtual Meeting Public Comment”). A brief period will be set aside during the meeting to read public comments received in advance of 12:00 p.m. EDT, September 19, 2024. Any public comments received after the deadline will be posted to the website listed in the **ADDRESSES** section.

Robert L. Santos, Director, Census Bureau, approved the publication of this Notice in the **Federal Register**.

Dated: August 7, 2024.

Shannon Wink,

Program Analyst, Policy Coordination Office, U.S. Census Bureau.

[FR Doc. 2024–17958 Filed 8–12–24; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE**International Trade Administration**

[C–570–173]

Vanillin From the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable August 13, 2024.

FOR FURTHER INFORMATION CONTACT: Jeff Pedersen, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–2769.

SUPPLEMENTARY INFORMATION:**Background**

On June 25, 2024, the U.S. Department of Commerce (Commerce) initiated a countervailing duty (CVD) investigation of imports of vanillin from the People's Republic of China (China).¹ On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.² The deadline for this preliminary determination is now September 5, 2024, which is the original August 29, 2024, deadline tolled by seven days.

Postponement of Preliminary Determination

Section 703(b)(1) of the Tariff Act of 1930, as amended (the Act), requires Commerce to issue the preliminary determination in a CVD investigation within 65 days after the date on which Commerce initiated the investigation. However, section 703(c)(1) of the Act permits Commerce to postpone the preliminary determination in a CVD investigation until no later than 130 days after the date on which Commerce initiated the investigation if: (A) the petitioner makes a timely request for an extension of the period within which the determination must be made; or (B) Commerce concludes that the parties concerned are cooperating, that the investigation is extraordinarily complicated, and that additional time is necessary to make the preliminary determination. Under 19 CFR 351.205(e), if the petitioner seeks postponement of a preliminary

determination in a CVD investigation, it must submit its request for postponement 25 days or more before the scheduled date of the preliminary determination and must state the reasons for the request. Commerce will grant the request unless it finds compelling reasons to deny the request.

On August 1, 2024, Solvay USA, LLC (Solvay), the petitioner in this investigation, timely requested that Commerce postpone the preliminary determination in the investigation.³ The petitioner requested postponement of the preliminary determination because it believes that Commerce requires more time to collect and investigate information that is necessary for determining accurate countervailable subsidy rates.⁴

In accordance with 19 CFR 351.205(e), the petitioner submitted its request for postponement of the preliminary determination in this investigation 25 days or more before the scheduled date of the preliminary determination and stated the reasons for its request. For the reasons stated above, and because there are no compelling reasons to deny the request, as a result, Commerce will issue its preliminary determination in the above-referenced investigation no later than November 12, 2024,⁵ in accordance with section 703(c)(1)(A) of the Act.

Pursuant to section 705(a)(1) of the Act and 19 CFR 351.210(b)(1), the deadline for the final determination in this investigation will continue to be 75 days after the date of the preliminary determination.

Notification to Interested Parties

This notice is issued and published pursuant to section 703(c)(2) of the Act and 19 CFR 351.205(f)(1).

Dated: August 6, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024–17996 Filed 8–12–24; 8:45 am]

BILLING CODE 3510–DS–P

³ See Solvay's Letter, "Request to Postpone Preliminary CVD Determination," dated August 1, 2024.

⁴ *Id.*

⁵ Postponing the preliminary determination makes the deadline Saturday, November 9, 2024. Monday, November 11, 2024, is a Federal holiday. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day, in this case Tuesday, November 12, 2024. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

DEPARTMENT OF COMMERCE**International Trade Administration**

[A–533–824]

Polyethylene Terephthalate Film, Sheet, and Strip From India: Preliminary Results of Antidumping Duty Administrative Review, and Rescission of Review, in Part; 2022–2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain producers and/or exporters subject to this administrative review made sales of subject merchandise at less than normal value during the period of review (POR) July 1, 2022, through June 30, 2023. We are also rescinding the review with respect to certain companies. Interested parties are invited to comment on these preliminary results.

DATES: Applicable August 13, 2024.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Jacob Saude, 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) 482–5255 or (202) 482–0981, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On July 1, 2002, Commerce published the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from India.¹

On September 11, 2023, in accordance with 19 CFR 351.221(c)(1)(i), Commerce initiated an administrative review of Cosmo First Ltd. India (Cosmo First), Chiripal Poly Films Limited (Chiripal), Ester Industries Ltd. (Ester), Garware Polyester Ltd. (Garware Polyester),² Jindal Poly Films Ltd., Jindal Poly Films Ltd. (India); Jindal Poly Films, Polyplex

¹ See *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 67 FR 44175 (July 1, 2002) (*Order*).

² On May 21, 2024, Commerce published its final results of the changed circumstances review (CCR) for Garware Polyester, in which we found that Garware Hi-Tech Films Limited (Garware Hi-Tech) is the successor-in-interest to Garware Polyester. See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Changed Circumstances Review*, 89 FR 44638 (May 21, 2024). Because the effective date of the CCR was after the POR of this administrative review, Commerce has continued to refer to the company as Garware Polyester in this review.

¹ See *Vanillin from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 89 FR 54421 (July 1, 2024).

² See "Memorandum, Tolling of Deadlines for Antidumping and Countervailing Duty Proceeding," dated July 22, 2024.

Corporation Ltd. (Polyplex), SRF Ltd./ SRF Limited of India/SRF Limited Packaging Films (SRF),³ and Vacmet India Limited (Vacmet India).⁴ Commerce selected Jindal and SRF for individual examination as mandatory respondents.⁵ Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), Commerce extended the deadline for the preliminary results until July 30, 2024.⁶ On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.⁷ The deadline for the preliminary results is now August 6, 2024.

For a detailed description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁸ A list of topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is available via

³ Commerce erroneously excluded “SRF Limited Packaging Films” as an additional name attributed to SRF in the initiation notice. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 62322 (September 11, 2023) (*Initiation Notice*). In the last administrative review, Commerce found, based on information provided by SRF, that SRF is most appropriately reviewed as SRF Limited/SRF Limited of India/SRF Limited Packaging Films. See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Antidumping Duty Administrative Review; Second Correction 2021–2022*, 89 FR 7684, 7685 (February 5, 2024).

⁴ See *Initiation Notice*. Commerce erroneously included Jindal Poly Films Ltd. (India); Jindal Poly Films as a separate company subject to this administrative review. We clarify here that Jindal Poly Films Ltd. and its counsel have identified Jindal as all three names in this proceeding (and past proceedings). As such, Commerce is treating the company as doing business as all three names (*i.e.*, Jindal Poly Films Ltd., Jindal Poly Films Ltd. (India), and Jindal Poly Films. See Jindal’s Letter, “Entry of Appearance on Behalf of M/S Jindal Poly Films Limited,” dated February 23, 2024, at 1 (“We are authorized by Jindal Poly Films Limited India”); see also Jindal’s Letter, “Submission of Section-A Initial Questionnaire Response,” dated February 23, 2024 at 2 (“... could cause substantial harm to Jindal Poly Films”); and Jindal’s Letter, “Extension Request to submit Response to Section B to D of Initial Questionnaire for the Producers and/or Exporters of PET Film by Jindal Poly Films Limited,” dated March 7, 2023, at 1 (“On behalf of Jindal Poly Films Limited . . .”).

⁵ See Memorandum, “Respondent Selection,” dated January 31, 2024.

⁶ See Memoranda, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review; 2022–2023,” dated March 19, 2024; and “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated July 9, 2024.

⁷ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

⁸ See Memorandum, “Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from India; 2022–2023,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

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 subject to the *Order* is PET film. The product is currently classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and for customs purposes, the written product description remains dispositive. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Partial Rescission of Administrative 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. All requests for an administrative review of Cosmo First, Chiripal, Ester, Garware Polyester, Vacmet India, and Polyplex were timely withdrawn.⁹ As a result, in accordance with 19 CFR 351.213(d)(1), we are rescinding this administrative review with respect to these companies. Accordingly, the companies that remain subject to the instant review are Jindal and SRF.

Successor-in-Interest

As part of its section A response, Jindal Poly Films Limited/Jindal Poly Films/Jindal Poly Films Limited India (collectively, Jindal) reported that during the POR, it transferred its “plastic film business” to JPFL Films Private Limited (JPFL).¹⁰ We requested

⁹ See Cosmo First’s Letter, “Withdrawal Request for Administrative Review of Antidumping Duty of Cosmo First Ltd and Rescind the Antidumping duty Admin Review of Cosmo for the POR July 1, 2022 to June 30, 2023,” dated December 9, 2023; see also Chiripal’s Letter, “Withdrawal of Request for Antidumping Duty Admin Review of Chiripal Poly Films Limited (Chiripal),” dated December 11, 2023; DuPont Teijin Films, Mitsubishi Chemical America, Inc.—Polyester Film Division, and SKC, Inc.’s Letter, “Withdrawal of Request for Antidumping Duty Administrative Review,” dated December 11, 2023; Polyplex USA LLC’s Letter, “Withdrawal of Request for Review for Polyplex USA LLC,” dated November 29, 2023.

¹⁰ See Jindal’s Letters, “Submission of Section-A Initial Questionnaire Response” dated February 23, 2024; and “Submission of Section A and C of First

additional information, which Jindal submitted in response to a supplemental questionnaire.¹¹ After analyzing the information on the record of this review, Commerce has determined that further information is required to make a determination as to whether JPFL is the successor-in-interest to Jindal, and we intend to request further information via supplemental questionnaires. Commerce will issue its preliminary findings with respect to this issue subsequent to these preliminary results.

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Act. We calculated export price in accordance with section 772(a) of the Act. We calculated normal value in accordance with section 773 of the Act. For a full description of the methodology underlying these preliminary results, see the Preliminary Decision Memorandum.

Preliminary Results of the Review

We preliminarily determine the following estimated weighted-average dumping margins exist for the period July 1, 2022, through June 30, 2023:

Exporter/producer	Weighted-average dumping margin (percent)
Jindal Poly Films Ltd./Jindal Poly Films/Jindal Poly Films Limited India ¹²	0.00
SRF Ltd./SRF Limited of India/SRF Limited Packaging Films	1.15

Disclosure and Public Comment

Commerce intends to disclose its calculations performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in the **Federal Register** in accordance with 19 CFR 351.224(b).

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance.¹³ Commerce will notify interested parties of the deadline for submission of case briefs. Rebuttal

Supplemental Questionnaire Response,” dated May 30, 2024, at 1 (agreeing to make public information relating to transfer of business from Jindal to JPFL).

¹¹ See Jindal’s Letter, “Submission of Response to Question 2 of Section A First Supplemental Questionnaire related to the Changed circumstances review,” dated June 10, 2024.

¹² See footnote 3, *supra*, for explanation of the company name.

¹³ See 19 CFR 351.309(c)(1)(ii); see also 19 CFR 351.303 for general filing requirements.

briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁴ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁵

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁶ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁷

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, U.S. Department of Commerce, filed electronically, using ACCESS. Hearing 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 case and rebuttal briefs. An electronically filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time, within 30 days of the publication date of this notice. If a request for a hearing is made, parties will be notified of the time and date of the hearing.¹⁸

Final Results of Review

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

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b)(1), upon issuing the final results, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this 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 administrative review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

If Jindal or SRF's 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 intends to calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales to the total entered value of those sales. Where we do not have entered values for all U.S. sales to a particular importer, we will calculate an importer-specific, per-unit assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales to the total quantity of those sales.¹⁹ 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 Jindal or SRF's weighted-average dumping margin is zero or *de minimis* or where an importer-specific *ad valorem* assessment rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²⁰

¹⁹ See 19 CFR 351.212(b)(1).

²⁰ See 19 CFR 351.106(c)(2); *see also* Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping

In accordance with Commerce's "automatic assessment" practice, for entries of subject merchandise during the POR produced by Jindal or SRF for which the respondent did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate those entries at the all-others rate in the original less-than-fair-value investigation (*i.e.*, 5.71 percent) if there is no rate for the intermediate company(ies) involved in the transaction.²¹ 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 cash deposits of estimated antidumping duties, where applicable.

For the companies for which we are rescinding this administrative review, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, during the period of review, in accordance with 19 CFR 351.212(c)(1)(i). For these companies, Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these preliminary results in the **Federal Register**.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all 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, as provided for by section 751(a)(2)(C) of the Act: (1) the company-specific cash deposit rate for Jindal and SRF will be equal to the weighted-average dumping margin for each company established in the final results of this review (except, if that rate is *de minimis* within the meaning of 19 CFR 351.106(c)(1), then the cash deposit rate will be zero); (2) for producers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which they were reviewed; (3) if the exporter is not a firm covered in this review or a prior segment of the proceeding but the producer is, then the cash deposit rate will be the rate established for the most recently

Proceedings; Final Modification, 77 FR 8101, 8103 (February 14, 2012).

²¹ For a full discussion of this practice, *see* Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

¹⁴ See 19 CFR 351.309(d); *see also* Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

¹⁵ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁶ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁷ See *APO and Service Procedures*.

¹⁸ See 19 CFR 351.310(d).

completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 5.71 percent, the all-others rate established in the less-than-fair-value investigation.²² 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) to file a certificate regarding the reimbursement of antidumping and/or countervailing 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 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 countervailing duties.

Notification to Interested Parties

We are issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h)(2) and 351.221(b)(4).

Dated: August 6, 2024.

Scot Fullerton,

*Acting Deputy Assistant Secretary for
Antidumping and Countervailing Duty
Operations.*

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Successor-in-Interest Analysis
- V. Discussion of the Methodology
- VI. Currency Conversion
- VII. Recommendation

[FR Doc. 2024-17998 Filed 8-12-24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-821]

Utility Scale Wind Towers From Malaysia: Amended Final Results of Antidumping Duty Administrative Review; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is amending the final results of the administrative review of the antidumping duty (AD) order on utility scale wind towers (wind towers) from Malaysia to correct a ministerial error. The period of review (POR) is October 13, 2021, through November 30, 2022.

DATES: Applicable August 13, 2024.

FOR FURTHER INFORMATION CONTACT:

Rachel Jennings, 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) 482-1110.

SUPPLEMENTARY INFORMATION:

Background

On July 2, 2024, Commerce published in the **Federal Register** the final results of the 2021–2022 administrative review of the AD order on wind towers from Malaysia.¹ On July 3, 2024, Commerce disclosed its calculations to interested parties.² On July 8, 2024, CS Wind Corporation and CS Wind Malaysia Sdn Bhd (collectively, CS Wind), a mandatory respondent in this review, timely alleged that Commerce made a ministerial error in the *Final Results*. Specifically, CS Wind alleged that Commerce failed to convert the company's shutdown costs from Malaysian ringgit to South Korean won when calculating the revised cost of goods sold denominator used in the calculation of CS Wind's revised financial expense rate (*i.e.*, INTEX rate).³ No other party submitted a ministerial error allegation or rebutted CS Wind's ministerial error allegation.

Legal Framework

Pursuant to section 751(h) of the Act, Commerce has established procedures for the correction of a ministerial error in the final results of an administrative review after the final results are issued. A “ministerial error” is defined as including “errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which {Commerce} considers

ministerial.”⁴ An allegation concerning a methodological decision by Commerce is not considered ministerial in nature because it does not satisfy the regulatory definition of that term.⁵

Commerce's regulations stipulate that Commerce will disclose calculations performed, if any, in connection with the final results of an administrative review to parties in the proceeding, and that those parties may submit comments concerning any ministerial error in such calculations within five days of disclosure.⁶ Comments submitted by parties “must explain the alleged ministerial error by reference to applicable evidence in the official record, and must present what, in the party's view, is the appropriate correction.”⁷ Pursuant to 19 CFR 351.224(e),⁸ Commerce will analyze any comments received and, if appropriate, correct any ministerial error by amending the final results.

Ministerial Error

In the *Final Results*, Commerce made an inadvertent error within the meaning of section 751(h) of the Act and 19 CFR 351.224(f) by not converting CS Wind's shutdown costs from Malaysian ringgit to Korean won in calculating the revised cost of goods sold denominator used in the calculation of CS Wind's consolidated financial expense rate (*i.e.*, CS Wind's INTEX rate). Correcting for this error results in a change to CS Wind's weighted-average dumping margin from 18.02 percent calculated in the *Final Results*⁹ to 17.97 percent.¹⁰

For a complete description and analysis of the specific ministerial error, and CS Wind's ministerial error allegation, see the accompanying Ministerial Error Allegation Memorandum.¹¹ The Ministerial Error

⁴ See section 751(h) of the Act; see also 19 CFR 351.224(f).

⁵ See, e.g., *Alloy Piping Prods. v. United States*, 201 F. Supp. 2d 1267, 1285 (CIT 2002) (“The error in question must be demonstrated to be a clerical error, not a methodological error, an error in judgment, or a substantive error”); see also section 751(h) of the Act, and 19 CFR 351.224(f).

⁶ See 19 CFR 351.224(b) and (c)(1).

⁷ See 19 CFR 351.224(d).

⁸ See section 751(h) of the Act (“{Commerce} shall establish procedures for the correction of ministerial errors . . . within a reasonable time after { } determinations are issued”).

⁹ See *Final Results*, 89 FR 56735.

¹⁰ See Memorandum, “Analysis Memorandum for the Amended Final Results of Review,” dated concurrently with, memorandum; see also Memorandum, “Cost of Production and Constructed Value Calculation Adjustments for the Amended Final Results—CS Wind Malaysia,” dated concurrently with this memorandum.

¹¹ See Memorandum, “Administrative Review of the Antidumping Duty Order on Utility Scale Wind Towers from Malaysia, 2021–2022: Allegation of Ministerial Error in the Final Results,” dated

¹ See *Utility Scale Wind Towers from Malaysia: Final Results of Antidumping Duty Administrative Review; 2021–2022*, 89 FR 56735 (July 10, 2024) (*Final Results*).

² See Memorandum, “Cost of Production and Constructed Value Calculation Adjustments for the Final Results—CS Wind Malaysia,” dated July 2, 2024.

³ See CS Wind's Letter, “Ministerial Error Allegation,” dated July 8, 2024 (Ministerial Error Allegation).

²² See *Order*.

Allegation 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>.

Amended Final Results of Review

As a result of correcting the ministerial error described above, we determine that the following estimated weighted-average dumping margin exists for the period October 13, 2021, through November 30, 2022:

Exporter or producer	Weighted-average dumping margin (percent)
CS Wind Corporation/CS Wind Malaysia Sdn Bhd	17.97

Disclosure

Commerce intends to disclose the calculations performed in connection with these amended final results of review to interested parties within five days after public announcement of the amended final results or, if there is no public announcement, within five days of the date of publication of the notice of amended final results in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b)(1), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these amended final results of review.

Pursuant to 19 CFR 351.212(b)(1), for CS Wind, we calculated importer-specific *ad valorem* assessment rates based on the ratio of the total amount of dumping calculated for the examined sales for each importer to the total entered value of the sales for each importer. Where an importer-specific assessment rate is zero or *de minimis*, within the meaning of 19 CFR 351.106(c)(1), Commerce will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

For entries of subject merchandise during the POR produced by CS Wind for which it did not know that its merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others

rate established in the less-than-fair-value (LTFV) investigation of 0.00 percent *ad valorem*,¹² if there is no rate for the intermediate company(ies) involved in the transaction.

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the amended 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 amended cash deposit requirements will be effective retroactively upon publication of the amended final results of this administrative review in the **Federal Register**, for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after July 10, 2024, the publication date of the *Final Results*, as provided by section 751(a)(2)(C) of the Act: (1) the amended cash deposit rate for subject merchandise exported by CS Wind will be equal to the weighted-average dumping margin established in these amended final results of this review; (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 in the completed segment for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the producer is, then the cash deposit rate will be the rate established in the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 0.00 percent, the all-others rate established in the LTFV investigation.¹³ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) 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 doubled antidumping duties.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(h) and 777(i)(1) of the Act, and 19 CFR 351.224(e).

Dated: August 7, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024–18010 Filed 8–12–24; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–552–816]

Welded Stainless Steel Pressure Pipe From the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review; 2022–2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Sonha SSP Vietnam Sole Member Company Limited (Sonha SSP) and Vinlong Stainless Steel (Vietnam) Co., Ltd. (Vinlong) sold subject merchandise to the United States at less than normal value (NV) during the period of review (POR) July 1, 2022, through June 30, 2023.

DATES: Applicable August 13, 2024.

FOR FURTHER INFORMATION CONTACT: Luke Caruso or Maisha Cryor, AD/CVD Operations, Office IV, Enforcement and

concurrently with this notice (Ministerial Error Allegation Memorandum).

¹² See *Utility Scale Wind Towers from India and Malaysia: Antidumping Duty Orders*, 86 FR 69014 (December 6, 2021).

¹³ *Id.*

Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2081 or (202) 482–5831, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 21, 2014, Commerce published in the **Federal Register** the antidumping duty (AD) order on welded stainless steel pressure pipe (welded pressure pipe) from Socialist Republic of Vietnam (Vietnam). On July 3, 2023, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order*.¹

On September 11, 2023, Commerce published in the **Federal Register** the initiation notice of an administrative review of the AD *Order* on welded pressure pipe from Vietnam.² Commerce selected Sonha SSP and Vinlong as mandatory respondents in this administrative review.³ On March 8, 2024, Commerce extended the deadline for these preliminary results to July 30, 2024.⁴ On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.⁵ The deadline for these preliminary results is now August 6, 2024. 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

The merchandise covered by this *Order* is circular welded austenitic stainless pressure pipe not greater than 14 inches in outside diameter. A full description of the scope of the *Order* is contained in the Preliminary Decision Memorandum.⁷

Vietnam-Wide Entity

Under Commerce’s policy regarding the conditional review of the Vietnam-wide entity,⁸ the Vietnam-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 Vietnam-wide entity in this review, the entity is not under review, and the entity’s rate (*i.e.*, 16.25) is not subject to change.⁹

With the exception of Sonha SSP and Vinlong, Commerce considers all other companies for which a review was requested and did not demonstrate separate rate eligibility to be part of the Vietnam-wide entity.¹⁰ For these preliminary results, we consider Mejonson Industrial Vietnam Co., Ltd., to be part of the Vietnam-wide entity because it did not file a separate rate application or certification. For additional information, *see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B)

of the Tariff Act of 1930, as amended (the Act). We calculated export price in accordance with section 772 of the Act. Because Vietnam is a non-market economy country within the meaning of section 771(18) of the Act, we calculated NV in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, *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>. A list of topics discussed in the Preliminary Decision Memorandum is included in Appendix I of this notice. In addition, a complete version of the Preliminary Decision Memorandum can be found at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Preliminary Results of the Administrative Review

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist for the administrative review covering the period July 1, 2022, through June 30, 2023:

Exporter	Weighted-average dumping margin (percent)
Sonha SSP Vietnam Sole Member Company Limited/Sonha International Corporation ¹¹	144.51
Vinlong Stainless Steel (Vietnam) Co., Ltd	144.51
Vietnam-wide Entity	16.25

Disclosure and Public Comment

We intend to disclose the calculations performed to parties within five days after public announcement of the preliminary results or, if there is no

public announcement, within five days of the date of publication of this notice.¹² Interested parties may submit case briefs no later than 30 days after the date of publication of this notice.¹³

Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁴ Interested parties who submit case or rebuttal briefs in this

¹ See *Welded Stainless Pressure Pipe from Malaysia, Thailand, and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 79 FR 42289 (July 21, 2014) (*Order*); and *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List*, 87 FR 39461 (July 3, 2023).
² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 62322 (September 11, 2023) (*Initiation Notice*).
³ See Memorandum, “Respondent Selection,” dated November 27, 2023.
⁴ See Memorandum, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated March 8, 2024.

⁵ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.
⁶ See Memorandum, “Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review: Welded Stainless Steel Pressure Pipe from the Socialist Republic of Vietnam, 2022–2023,” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).
⁷ *Id.*
⁸ 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).

⁹ See *Order*.
¹⁰ See *Initiation Notice*.
¹¹ We are treating these companies as a single entity for purposes of this review. For a complete discussion, see Memorandum, *≥*Affiliation and Collapsing of Sonha International and Sonha SSP Vietnam Sole Member Company Limited,*≥* dated concurrently with this this memorandum.
¹² See 19 CFR 351.224(b).
¹³ See 19 CFR 351.309(c)(1)(ii); *see also* 19 CFR 351.303 (for general filing requirements).
¹⁴ See 19 CFR 351.309(d); *see also* *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Procedures*).

proceeding must submit it: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁵

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their briefs that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁶ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁷

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.¹⁸ Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in case and rebuttal briefs.¹⁹ If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. A hearing request must be filed electronically using ACCESS and received in its entirety by 5:00 p.m. Eastern Time within 30 days after the publication of this notice.

Final Results of Review

Unless the deadline is extended, Commerce intends to issue the final results of this review, including the results of its analysis of the issues raised in any written briefs, no later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Assessment Rates

Upon issuing 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.²⁰ 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).

For each individually examined respondent in this review whose weighted-average dumping margin in the final results of review is not zero or *de minimis* (*i.e.*, less than 0.5 percent), Commerce intends to calculate importer/customer-specific assessment rates.²¹ Where the respondent reported reliable entered values, Commerce intends to calculate importer/customer-specific *ad valorem* assessment rates by aggregating the amount of dumping calculated for all U.S. sales to the importer/customer and dividing this amount by the total entered value of the merchandise sold to the importer/customer.²² Where the respondent did not report entered values, Commerce will calculate importer/customer-specific assessment rates by dividing the amount of dumping for reviewed sales to the importer/customer by the total quantity of those sales. Commerce will calculate an estimated *ad valorem* importer/customer-specific assessment rate to determine whether the per-unit assessment rate is *de minimis*; however, Commerce will use the per-unit assessment rate where entered values were not reported.²³ Where an importer/customer-specific *ad valorem* assessment rate is not zero or *de minimis*, Commerce will instruct CBP to collect the appropriate duties at the time of liquidation. Where either the respondent's weighted average dumping margin is zero or *de minimis*, or an importer/customer-specific *ad valorem* assessment rate is zero or *de minimis*, Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²⁴

Pursuant to Commerce's refinement to its practice, for sales that were not reported in the U.S. sales database submitted by a respondent individually examined during this review, Commerce will instruct CBP to liquidate the entry of such merchandise at the dumping margin assigned to the Vietnam-wide entity.²⁵ For respondents not individually examined in this administrative review that qualified for a separate rate, the assessment rate will be equal to the weighted-average dumping margin assigned to the respondent in the final results of this review.²⁶

Additionally, where Commerce determines that an exporter under review had no shipments of subject merchandise to the United States during the POR, any suspended entries of subject merchandise that entered under that exporter's CBP case number during the POR will be liquidated at the dumping margin assigned to the Vietnam-wide entity.

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 the final results of this review and for future deposits of estimated antidumping duties, where applicable.

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 by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margins established in the final results of this review, except if the rate is *de minimis*, in which case the cash deposit rate will be zero; (2) for previously-examined Vietnamese and non-Vietnamese exporters not listed above that at the time of entry are eligible for a separate rate base on a prior completed segment of this proceeding, the cash deposit rate

²⁵ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

²⁶ See *Drawn Stainless Steel Sinks from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review and Preliminary Determination of No Shipments: 2014–2015*, 81 FR 29528 (May 12, 2016), and accompanying PDM at 10–11, unchanged in *Drawn Stainless Steel Sinks from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; Final Determination of No Shipments: 2014–2015*, 81 FR 54042 (August 15, 2016).

¹⁵ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁶ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁷ See *APO and Service Procedures*.

¹⁸ See 19 CFR 351.310(c).

¹⁹ See 19 CFR 351.310.

²⁰ See 19 CFR 351.212(b)(1).

²¹ See *Antidumping Proceedings: Calculation of the Weighted Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101 (February 14, 2012) (*Final Modification*).

²² See 19 CFR 351.212(b)(1).

²³ *Id.*

²⁴ See *Final Modifications*, 77 FR at 8103.

will continue to be the existing exporter-specific cash deposit rate; (3) for all non-Vietnamese exporters of subject merchandise which at the time of entry do not have a separate rate, the cash deposit rate will be the rate applicable to the Vietnamese exporter that supplied the non-Vietnamese exporter. 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 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

Commerce is issuing and publishing the preliminary results of this review in accordance with sections 751(a)(1)(B) and 777(i) of the Act, and 19 CFR 351.221(b)(4).

Dated: August 6, 2024.

Scot Fullerton,

*Acting Deputy Assistant Secretary for
Antidumping and Countervailing Duty
Operations.*

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Application of Facts Available With Adverse Inference
- V. Affiliation and Collapsing
- VI. Discussion of the Methodology
- VII. Currency Conversion
- VIII. Recommendation

[FR Doc. 2024-17997 Filed 8-12-24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-179]

Certain Tungsten Shot From the People's Republic of China: Initiation of Countervailing Duty Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable August 6, 2024.

FOR FURTHER INFORMATION CONTACT: Samuel Evans, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2420.

SUPPLEMENTARY INFORMATION:

The Petition

On July 10, 2024, the U.S. Department of Commerce (Commerce) received a countervailing duty (CVD) petition concerning imports of certain tungsten shot (tungsten shot) from the People's Republic of China (China) filed in proper form on behalf of Tungsten Parts Wyoming, Inc. (the petitioner), a domestic producer of tungsten shot.¹ The Petition was accompanied by an antidumping duty (AD) petition concerning imports of tungsten shot from China.²

On July 22, 2024, Commerce tolled the deadline for this administrative proceeding by seven days.³ The deadline for the initiation is now August 6, 2024.

Between July 12 and 30, 2024, Commerce requested supplemental information from the petitioner regarding the Petition in supplemental questionnaires.⁴ The petitioner responded to Commerce's supplemental questionnaires between July 18 and August 1, 2024.⁵

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of China (GOC) is providing countervailable subsidies, within the meaning of sections 701 and

¹ See Petitioner's Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties" dated July 10, 2024 (Petition).

² *Id.*

³ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated July 22, 2024.

⁴ See Commerce's Letters, "Supplemental Questions," dated July 12, 2024 (General Issues Questionnaire); "Supplemental Questions," dated July 15, 2024; and "Supplemental Questions," dated July 25, 2024; see also Memorandum, "Phone Call with Counsel to the Petitioner," dated July 22, 2024 (July 22 Memorandum).

⁵ See Petitioner's Letters, "Petitioner's Response to Supplemental Questions Regarding Common Issues and Injury Volume I of the Petitions," dated July 18, 2024 (First General Issues Supplement); "Petitioner's Response to Supplemental Questions Regarding Volume II of the Petitions," dated July 18, 2024; "Petitioner's Response to Supplemental Questions Regarding Volume III of the Petitions," dated July 22, 2024; "Petitioner's Response to Second Supplemental Questions Regarding Volume I of the Petitions," dated July 24, 2024 (Second General Issues Supplement); "Petitioner's Response to Third Supplemental Questions Regarding Volume I of the Petitions," dated July 26, 2024 (Third General Issues Supplement); and "Response to Supplemental Questions Regarding Volume III of the Petition," dated August 1, 2024.

771(5) of the Act, to Chinese producers of tungsten shot, and that such imports are materially injuring, or threatening material injury to, the industry producing tungsten shot in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), the alleged programs for which we are initiating this CVD investigation are supported by information in the Petition that is reasonably available to the petitioner.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry because the petitioner is an interested party as defined in section 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support with respect to the initiation of the requested CVD investigation.⁶

Period of Investigation

Because the Petition was filed on July 10, 2024, the period of investigation (POI) is January 1, 2023, through December 31, 2023.⁷

Scope of the Investigation

The merchandise covered by this investigation is tungsten shot from China. For a full description of the scope of this investigation, see the appendix to this notice.

Comments on Scope of the Investigation

Between July 12 and July 22, 2024, Commerce requested information and clarification from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁸ Between July 18 and July 24, 2024, the petitioner provided clarifications and revised the scope.⁹ The description of merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for parties to raise issues regarding product coverage (*i.e.*, scope).¹⁰ Commerce will consider all scope comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary

⁶ See section on "Determination of Industry Support for the Petition," *infra*.

⁷ See 19 CFR 351.204(b)(2).

⁸ See General Issues Questionnaire; see also July 22 Memorandum.

⁹ See First General Issues Supplement at 1; see also Second General Issues Supplement at 1-2.

¹⁰ See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); see also 19 CFR 351.312.

determination. If scope comments include factual information, all such factual information should be limited to public information.¹¹ To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5 p.m. Eastern Time (ET) on August 26, 2024, which is 20 calendar days from the signature date of this notice. Any rebuttal scope comments, which may include factual information, must be filed by 5 p.m. ET on September 5, 2024, which is 10 calendar days from the initial comment deadline.

Commerce requests that any factual information that the parties consider relevant to the scope of the investigation be submitted during the time period identified above. However, if a party subsequently finds that additional factual information pertaining to the scope of the investigation may be relevant, the party may contact Commerce and request permission to submit the additional information. All scope comments must also be filed on the records of the concurrent AD and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹² An electronically filed document must be received successfully in its entirety by the time and date it is due.

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOC of the receipt of the Petition and provided an opportunity for consultations with respect to the Petition.¹³ While the GOC provided comments on the Petition, it did not request consultations.¹⁴

¹¹ See 19 CFR 351.102(b)(21) (defining "factual information").

¹² See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014), for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at: <https://access.trade.gov/help.aspx> and https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

¹³ See Commerce's Letter, Invitation for Consultations, dated July 15, 2024.

¹⁴ See GOC's Letter, "Comments on Countervailing Duty Petition on Certain Tungsten Shot from the People's Republic of China (C-570-179)," dated July 28, 2024.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁵ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁶

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is

¹⁵ See section 771(10) of the Act.

¹⁶ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd Algoma Steel Corp., Ltd. v. United States*, 865 F.2d 240 (Fed. Cir. 1989)).

"the article subject to an investigation" (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁷ Based on our analysis of the information submitted on the record, we have determined that tungsten shot, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁸

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of the Investigation," in the appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2023.¹⁹ The petitioner stated that there are no other known producers of tungsten shot in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.²⁰ We relied on data provided by the petitioner for purposes of measuring industry support.²¹

Our review of the data provided in the Petition, the First General Issues Supplement, the Second General Issues Supplement, the Third General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established

¹⁷ See Petition at Volume I (pages 8–11 and Exhibit I–9); see also First General Issues Supplement at 3–4 and Exhibit I–SUPP–5.

¹⁸ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Checklist, "Certain Tungsten Shot from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (China CVD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Tungsten Shot from the People's Republic of China (Attachment II). This checklist is on file electronically via ACCESS.

¹⁹ See Petition at Volume I (page 2 and Exhibits I–3 and I–10); see also Third General Issues Supplement at 2 and Exhibit I–SUPP–3–1.

²⁰ See Petition at Volume I (page 2 and Exhibit I–3); see also First General Issues Supplement at 2–3 and Exhibits I–SUPP–1 through I–SUPP–4; and Second General Issues Supplement at 2 and Exhibits I–SUPP–3 and I–SUPP–4.

²¹ See Petition at Volume I (page 2 and Exhibit I–3); see also First General Issues Supplement at 2–3 and Exhibits I–SUPP–1 through I–SUPP–4; Second General Issues Supplement at 2 and Exhibits I–SUPP–3 and I–SUPP–4; and Third General Issues Supplement at 1 and Exhibit I–SUPP–3–1. For further discussion, see Attachment II of the China CVD Initiation Checklist.

industry support for the Petition.²² First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²³ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²⁴ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²⁵ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.²⁶

Injury Test

Because China is a “Subsidies Agreement Country” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to this investigation. Accordingly, the ITC must determine whether imports of the subject merchandise from China materially injure, or threaten material injury to, a U.S. industry, or whether the establishment of a U.S. industry is materially retarded, by reason of imports of the subject merchandise from China.

Allegations and Evidence of Material Retardation, Material Injury, and Causation

Section 703(a)(1)(B) of the Act states that the ITC “shall determine . . . whether there is a reasonable indication that the establishment of an industry in the United States is materially retarded by reason of imports of the subject merchandise.” The petitioner alleges that imports of subject merchandise are benefitting from countervailable subsidies and that such imports are materially retarding the establishment of the U.S. industry producing tungsten

shot.²⁷ The petitioner argues that that its production has been “modest” and has not stabilized and, therefore, the U.S. industry producing tungsten shot has not been established.²⁸ To support its argument, the petitioner examined the five factors²⁹ the ITC considers to determine if an industry is established,³⁰ as set forth in the ITC’s *AD/CVD Handbook*.³¹ If the ITC determines that an industry is not established, it then considers whether the performance of the industry reflects normal start-up difficulties or whether the imports of the subject merchandise have materially retarded the establishment of the industry.³² The petitioner contends that the domestic industry has performed substantially worse than what could reasonably be expected during normal start-up conditions, thereby demonstrating that the establishment of the domestic industry has been materially retarded by subject imports.³³ The petitioner also alleges that, in the alternative, the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise benefitting from countervailable subsidies.³⁴ In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided under section 771(24)(A) of the Act.³⁵

The petitioner contends that the industry’s materially retarded, or in the alternative, injured condition is illustrated by a significant volume of subject imports; significant market share

of subject imports; lost sales and revenues; underselling and price depression and/or suppression; and negative impact on income and financial performance.³⁶ We assessed the allegations and supporting evidence regarding material retardation, material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.³⁷

Initiation of CVD Investigation

Based upon our examination of the Petition and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating a CVD investigation to determine whether imports of tungsten shot from China benefit from countervailable subsidies conferred by the GOC. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 65 days after the date of this initiation.

Based on our review of the Petition, we find that there is sufficient information to initiate a CVD investigation on 37 of the 38 programs alleged by the petitioner. For a full discussion of the basis for our decision to initiate an investigation of each program, see the China CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available in ACCESS.

Respondent Selection

In the Petition, the petitioner identified 10 companies in China as producers and/or exporters of tungsten shot.³⁸ Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation. In the event that Commerce determines that the number of companies is large, and it cannot individually examine each company based upon Commerce’s resources, Commerce intends to select mandatory respondents based on quantity and value (Q&V) questionnaires issued to the potential respondents. Commerce normally selects mandatory respondents in CVD investigations using U.S. Customs and

²⁷ See Petition at Volume I (pages 11–25 and Exhibits I–3, I–7, and I–10 through I–14); see also Second General Issues Supplement at 3 and Exhibit I–SUPP2–3; and Third General Issues Supplement at 1 and Exhibit I–SUPP3–1.

²⁸ See Petition at Volume I (pages 13–18 and Exhibits I–3 and I–10); see also Second General Issues Supplement at 3 and Exhibit I–SUPP2–3; and Third General Issues Supplement at 1 and Exhibit I–SUPP3–1.

²⁹ For a discussion of the factors related to whether an industry is established, see China CVD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Retardation, Material Injury, and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Tungsten Shot from the People’s Republic of China (Attachment III).

³⁰ See Petition at Volume I (pages 13–18 and Exhibits I–3 and I–10); see also Third General Issues Supplement at 1 and Exhibit I–SUPP3–1.

³¹ See *Antidumping and Countervailing Duty Handbook* (14th Ed.), USITC Pub. 4540 (June 2015) (*AD/CVD Handbook*), at II–33.

³² *Id.*

³³ See Petition at Volume I (Exhibit I–13); see also Second General Issues Supplement at 3.

³⁴ See Petition at Volume I (page 25).

³⁵ *Id.* at 21–22 and Exhibit I–12; see also First General Issues Supplement at 4; and Second General Issues Supplement at 2–3 and Exhibit I–SUPP2–4.

²² See Attachment II of the China CVD Initiation Checklist.

²³ *Id.*; see also section 702(c)(4)(D) of the Act.

²⁴ See Attachment II of the China CVD Initiation Checklist.

²⁵ *Id.*

²⁶ *Id.*

³⁶ See Petition at Volume I (pages 11–30 and Exhibits I–3, I–7, and I–10 through I–18); see also First General Issues Supplement at 4–5 and Exhibit I–SUPP–6; Second General Issues Supplement at 2–3 and Exhibits I–SUPP2–2 through I–SUPP2–3; and Third General Issues Supplement at 1 and Exhibit I–SUPP3–1.

³⁷ See Attachment III of the China CVD Initiation Checklist.

³⁸ See Petition at Volume I (Exhibit GEN–8).

Border Protection (CBP) entry data for U.S. imports under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) subheadings listed in the scope of the investigation. However, for this investigation, the main HTSUS subheading under which the subject merchandise would enter (9306.29.0000) is a basket category under which non-subject merchandise may enter. Therefore, we cannot rely on CBP entry data in selecting respondents. Instead, we intend to issue Q&V questionnaires to each potential respondent for which the petitioner has provided a complete address.

Exporters/producers of tungsten shot from China that do not receive Q&V questionnaires by mail may still submit a response to the Q&V questionnaire and can obtain the Q&V questionnaire from Enforcement and Compliance's website at <https://access.trade.gov/resources/questionnaires/questionnaires-ad.html>. Responses to the Q&V questionnaire must be submitted by the relevant Chinese producers/exporters no later than 5:00 p.m. ET on August 20, 2024, which is two weeks from the signature date of this notice. All Q&V responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above. Commerce intends to finalize its decision regarding respondent selection within 20 days of publication of this notice.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the GOC via ACCESS. Furthermore, to the extent practicable, Commerce will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of tungsten shot from China materially retard the establishment of a U.S. industry, or that subject imports are materially injuring, or threatening material injury to, a U.S. industry.³⁹ A

negative ITC determination will result in the investigation being terminated.⁴⁰ Otherwise, this CVD investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors of production under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁴¹ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁴² Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301(c), or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301.⁴³ For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed

to be considered timely. An extension request must be made in a separate, standalone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302(c), that extraordinary circumstances exist. Parties should review Commerce's regulations concerning time limits for submission of factual information prior to submitting factual information in this investigation.⁴⁴

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁴⁵ Parties must use the certification formats provided in 19 CFR 351.303(g).⁴⁶ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letters of appearance). Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).⁴⁷

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: August 6, 2024.

Scott Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix—Scope of the Investigation

The merchandise covered by the investigation is certain tungsten spheres or

⁴⁴ See 19 CFR 351.301; see also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), and *Regulations Improving and Strengthening the Enforcement of Trade Remedies Through the Administration of the Antidumping and Countervailing Duty Laws*, 89 FR 20766 (March 25, 2024).

⁴⁵ See section 782(b) of the Act.

⁴⁶ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at: https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

⁴⁷ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069 (September 29, 2023).

³⁹ See section 703(a)(1) of the Act.

⁴⁰ *Id.*

⁴¹ See 19 CFR 351.301(b).

⁴² See 19 CFR 351.301(b)(2).

⁴³ See 19 CFR 351.302.

balls, also known as shot, that are 92.6 percent or greater tungsten by weight, not including the weight of any additional coating. In scope shot have a diameter ranging from 1.5 millimeters (mm) to 10.0 mm. Subject shot can be referred to as “Tungsten Super Shot.” Merchandise is covered regardless of the combination of compounds that comprise the non-tungsten material and whether or not the tungsten shot is additionally coated with another material, including but not limited to copper, nickel, iron, or metallic alloys.

Tungsten shot subject to the investigation may be classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheading: 9306.29.0000. Merchandise may also be entered under HTSUS subheading 8101.99.8000. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

[FR Doc. 2024–18009 Filed 8–12–24; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–178]

Certain Tungsten Shot From the People’s Republic of China: Initiation of Less-Than-Fair-Value Investigation

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Applicable August 6, 2024.

FOR FURTHER INFORMATION CONTACT: Adam Simons, AD/CVD Operations, Office IX, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6172.

SUPPLEMENTARY INFORMATION:

The Petition

On July 10, 2024, the U.S. Department of Commerce (Commerce) received an antidumping duty (AD) petition concerning imports of certain tungsten shot (tungsten shot) from the People’s Republic of China (China) filed in proper form on behalf of Tungsten Parts Wyoming, Inc. (the petitioner), a U.S. producer of tungsten shot.¹ The Petition was accompanied by a countervailing duty (CVD) petition concerning imports of tungsten shot from China.²

On July 22, 2024, Commerce tolled certain deadlines in this administrative

proceeding by seven days.³ The deadline for initiation is now August 6, 2024.

Between July 12 and July 25, 2024, Commerce requested supplemental information pertaining to certain aspects of the Petition in supplemental questionnaires.⁴ The petitioner responded to Commerce’s supplemental questionnaires between July 18 and July 26, 2024.⁵

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of tungsten shot from China are being, or are likely to be, sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act, and that imports of such products materially retard the establishment of an industry in the United States, or in the alternative, that such products are materially injuring, or threatening material injury to, the tungsten shot industry in the United States. Consistent with section 732(b)(1) of the Act, the Petition was accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petition on behalf of the domestic industry, because the petitioner is an interested party, as defined in sections 771(9)(C) of the Act. Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested LTFV investigation.⁶

Period of Investigation

Because the Petition was filed on July 10, 2024, and because China is a non-market economy (NME) country, pursuant to 19 CFR 351.204(b)(1), the period of investigation (POI) for the

³ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

⁴ See Commerce’s Letters, “Supplemental Questions,” dated July 12, 2024 (General Issues Questionnaire); “Supplemental Questions,” dated July 12, 2024; and “Supplemental Questions,” dated July 25, 2024; see also Memorandum, “Phone Call with Counsel to Petitioner,” dated July 22, 2024 (July 22 Memorandum).

⁵ See Petitioner’s Letters, “Petitioner’s Response to Supplemental Questions Regarding Common Issues and Injury Volume I of the Petitions,” dated July 18, 2024 (First General Issues Supplement); “Petitioner’s Response to Supplemental Questions Regarding Volume II of the Petitions,” dated July 18, 2024; “Petitioner’s Response to Second Supplemental Questions Regarding Volume II of the Petitions,” dated July 23, 2024; “Petitioner’s Response to Second Supplemental Questions Regarding Volume I of the Petitions,” dated July 24, 2024 (Second General Issues Supplement); and “Petitioner’s Response to Third Supplemental Questions Regarding Volume I of the Petitions,” dated July 26, 2024 (Third General Issues Supplement).

⁶ See section on “Determination of Industry Support for the Petition,” *infra*.

China LTFV investigation is January 1, 2024, through June 30, 2024.

Scope of the Investigation

The product covered by this investigation is tungsten shot from China. For a full description of the scope of this investigation, see the appendix to this notice.

Comments on the Scope of the Investigation

Between July 12 and July 22, 2024, Commerce requested information and clarification from the petitioner regarding the proposed scope to ensure that the scope language in the Petition is an accurate reflection of the products for which the domestic industry is seeking relief.⁷ Between July 18 and July 24, 2024, the petitioner provided clarifications and revised the scope.⁸ The description of merchandise covered by this investigation, as described in the appendix to this notice, reflects these clarifications.

As discussed in the *Preamble* to Commerce’s regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁹ Commerce will consider all scope comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determination. If scope comments include factual information,¹⁰ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that scope comments be submitted by 5:00 p.m. Eastern Time (ET) on August 26, 2024, which is 20 calendar days from the signature date of this notice.¹¹ Any rebuttal comments, which may include factual information, and should also be limited to public information, must be filed by 5:00 p.m. ET on September 5, 2024, which is 10 calendar days from the initial comment deadline.¹²

Commerce requests that any factual information that parties consider relevant to the scope of this investigation be submitted during that period. However, if a party subsequently finds that additional factual information pertaining to the scope of the

⁷ See General Issues Questionnaire; see also July 22 Memorandum.

⁸ See First General Issues Supplement at 1; see also Second General Issues Supplement at 1–2.

⁹ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*); see also 19 CFR 351.312.

¹⁰ See 19 CFR 351.102(b)(21) (defining “factual information”).

¹¹ See 19 CFR 351.303(b)(1).

¹² *Id.*

¹ See Petitioner’s Letter, “Petitions for the Imposition of Antidumping and Countervailing Duties,” dated July 10, 2024 (the Petition).

² *Id.*

investigation may be relevant, the party must contact Commerce and request permission to submit the additional information. All scope comments must be filed simultaneously on the records of the concurrent LTFV and CVD investigations.

Filing Requirements

All submissions to Commerce must be filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.¹³ An electronically filed document must be received successfully in its entirety by the time and date it is due.

Comments on Product Characteristics

Commerce is providing interested parties with an opportunity to comment on the appropriate physical characteristics of tungsten shot to be reported in response to Commerce's AD questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors of production (FOP) accurately, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. In order to consider the suggestions of interested parties in developing and issuing the AD questionnaire, all product characteristics comments must be filed by 5:00 p.m. ET on August 26, 2024, which is 20 calendar days from the signature date of this notice.¹⁴ Any rebuttal comments must be filed by 5 p.m. ET on September 5, 2024, which is 10 calendar days from the initial comment deadline. All comments and submissions to Commerce must be filed electronically using ACCESS, as explained above, on the record of the LTFV investigation.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the

domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹⁵ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁶

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation" (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the domestic like product distinct from the scope of the investigation.¹⁷ Based on our analysis of the information submitted on the record, we have determined that tungsten shot, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁸

In determining whether the petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petition with reference to the domestic like product as defined in the "Scope of the Investigation," in the appendix to this notice. To establish industry support, the petitioner provided its own production of the domestic like product in 2023.¹⁹ The petitioner stated that there are no other known producers of tungsten shot in the United States; therefore, the Petition is supported by 100 percent of the U.S. industry.²⁰ We relied on data provided by the petitioner for purposes of measuring industry support.²¹

Our review of the data provided in the Petition, the First General Issues Supplement, the Second General Issues Supplement, the Third General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petition.²² First, the Petition established support from domestic producers (or workers) accounting for more than 50 percent of

¹⁷ See Petition at Volume I (pages 8–11 and Exhibit I–9); see also First General Issues Supplement at 3–4 and Exhibit I–SUPP–5.

¹⁸ For a discussion of the domestic like product analysis as applied to this case and information regarding industry support, see Checklist, "Certain Tungsten Shot from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (China AD Initiation Checklist) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Certain Tungsten Shot from the People's Republic of China (Attachment II). This checklist is on file electronically via ACCESS.

¹⁹ See Petition at Volume I (page 2 and Exhibits I–3 and I–10); see also Third General Issues Supplement at 2 and Exhibit I–SUPP–1.

²⁰ *Id.* at 2 and Exhibit I–3; see also First General Issues Supplement at 2–3 and Exhibits I–SUPP–1 through I–SUPP–4; and Second General Issues Supplement at 2 and Exhibits I–SUPP–3 AND I–SUPP–4.

²¹ See Petition at Volume I (page 2 and Exhibit I–3); see also First General Issues Supplement at 2–3 and Exhibits I–SUPP–1 through I–SUPP–4; Second General Issues Supplement at 2 and Exhibits I–SUPP–3 AND I–SUPP–4; and Third General Issues Supplement at 1 and Exhibit I–SUPP–1. For further discussion, see Attachment II of the China AD Initiation Checklist.

²² See Attachment II of the China AD Initiation Checklist.

¹³ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures*; *Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance: Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at https://access.trade.gov/help/Handbook_on_Electronic_Filing_Procedures.pdf.

¹⁴ See 19 CFR 351.303(b)(1).

¹⁵ See section 771(10) of the Act.

¹⁶ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989)).

the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (e.g., polling).²³ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the domestic like product.²⁴ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition.²⁵ Accordingly, Commerce determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.²⁶

Allegations and Evidence of Material Retardation, Material Injury, and Causation

Section 773(a)(1)(B) of the Act states that the ITC “shall determine . . . whether there is a reasonable indication that the establishment of an industry in the United States is materially retarded by reason of imports of the subject merchandise.” The petitioner alleges that imports of subject merchandise sold at LTFV from China have materially retarded the establishment of the U.S. industry producing tungsten shot.²⁷ The petitioner argues that that its production has been “modest” and has not stabilized and, therefore, the U.S. industry producing tungsten shot has not been established.²⁸ To support its argument, the Petitioner examines the five factors²⁹ considered by the ITC to

determine if an industry is established,³⁰ as set forth in the ITC’s *AD/CVD Handbook*.³¹ If the ITC determines that an industry is not established, it then considers whether the performance of the industry reflects normal start-up difficulties or whether the imports of the subject merchandise have materially retarded the establishment of the industry.³² The petitioner contends that the domestic industry has performed substantially worse than what could reasonably be expected during normal start-up conditions, thereby demonstrating that the establishment of the domestic industry has been materially retarded by subject imports.³³ The petitioner also alleges that, in the alternative, the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than LTFV.³⁴ In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.³⁵

The petitioner contends that the industry’s materially retarded, or in the alternative, injured condition is illustrated by a significant volume of subject imports; significant market share of subject imports; lost sales and revenues; underselling and price depression and/or suppression; and negative impact on income and financial performance.³⁶ We assessed the allegations and supporting evidence regarding material retardation, or in the alternative, material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.³⁷

Allegations of Sales at LTFV

The following is a description of the allegations of sales at LTFV upon which Commerce based its decision to initiate an LTFV investigation of imports of tungsten shot from China. The sources of data for the deductions and adjustments relating to U.S. price and normal value (NV) are discussed in greater detail in the China AD Initiation Checklist.

U.S. Price

The petitioner based export price (EP) on pricing information for sales, or offers for sale, of tungsten shot produced in and exported from China.³⁸ The petitioner made certain adjustments to U.S. price to calculate a net ex-factory U.S. price, where applicable.³⁹

Normal Value

Commerce considers China to be an NME country.⁴⁰ In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by Commerce. Therefore, we continue to treat China as an NME country for purposes of the initiation of this China LTFV investigation. Accordingly, we base NV on FOPs valued in a surrogate market economy country in accordance with section 773(c) of the Act.

The petitioner claims that Chile is an appropriate surrogate country for China because it is a market economy that is at a level of economic development comparable to that of China and is a significant producer of comparable merchandise.⁴¹ The petitioner provided publicly available information from Chile to value all FOPs.⁴² Based on the information provided by the petitioner, we believe it is appropriate to use Chile as a surrogate country for China to value all FOPs for initiation purposes.

Interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an

²³ *Id.*; see also section 732(c)(4)(D) of the Act.

²⁴ See Attachment II of the China AD Initiation Checklist.

²⁵ *Id.*

²⁶ *Id.*

²⁷ See Petition at Volume I (pages 11–25 and Exhibits I–3, I–7, and I–10 through I–14); see also Second General Issues Supplement at 3 and Exhibit I–SUPP2–3; and Third General Issues Supplement at 1 and Exhibit I–SUPP3–1.

²⁸ See Petition at Volume I (pages 13–18 and Exhibits I–3 and I–10); see also Second General Issues Supplement at 3 and Exhibit I–SUPP2–3; and Third General Issues Supplement at 1 and Exhibit I–SUPP3–1.

²⁹ For a discussion of the factors related to whether an industry is established, see China AD Initiation Checklist at Attachment III, Analysis of Allegations and Evidence of Material Retardation, Material Injury, and Causation for the Antidumping and Countervailing Duty Petitions Covering Certain Tungsten Shot from the People’s Republic of China (Attachment III).

³⁰ See Petition at Volume I (pages 13–18 and Exhibits I–3 and I–10) see also Third General Issues Supplement at 1 and Exhibit I–SUPP3–1.

³¹ See *Antidumping and Countervailing Duty Handbook* (14th Ed.), USITC Pub. 4540 (June 2015) at II–33.

³² *Id.*

³³ See Petition at Volume I (Exhibit I–13); see also Second General Issues Supplement at 3.

³⁴ See Petition at Volume I (page 25).

³⁵ *Id.* at 21–22 and Exhibit I–12; see also First General Issues Supplement at 4; and Second General Issues Supplement at 2–3 and Exhibit I–SUPP2–4.

³⁶ See Petition at Volume I (pages 11–30 and Exhibits I–3, I–7, and I–10 through I–18); see also First General Issues Supplement at 4–5 and Exhibit I–SUPP–6; Second General Issues Supplement at 2–3 and Exhibits I–SUPP2–2 through I–SUPP2–3; and Third General Issues Supplement at 1 and Exhibit I–SUPP3–1.

³⁷ See Attachment III of the China AD Initiation Checklist.

³⁸ See China AD Initiation Checklist.

³⁹ *Id.*

⁴⁰ See, e.g., *Certain Freight Rail Couplers and Parts Thereof from the People’s Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value and Preliminary Affirmative Determination of Critical Circumstances*, 88 FR 15372 (March 13, 2023), and accompanying Preliminary Decision Memorandum at 5, unchanged in *Certain Freight Rail Couplers and Parts Thereof from the People’s Republic of China: Final Affirmative Determination of Sales at Less-Than-Fair Value and Final Affirmative Determination of Critical Circumstances*, 88 FR 34485 (May 30, 2023).

⁴¹ See China AD Initiation Checklist.

⁴² *Id.*

opportunity to submit publicly available information to value FOPs within 30 days before the scheduled date of the preliminary determination.

Factors of Production

Because information regarding the volume of inputs consumed by Chinese producers/exporters was not reasonably available, the petitioner used its own product-specific consumption rates as a surrogate to value Chinese manufacturers' FOPs.⁴³ Additionally, the petitioner calculated factory overhead, selling, general, and administrative expenses, and profit based on the experience of a Chilean producer of comparable merchandise.⁴⁴

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of tungsten shot from China are being, or are likely to be, sold in the United States at LTFV. Based on comparisons of EP to NV, in accordance with sections 772 and 773 of the Act, the estimated dumping margin is 201.32 percent *ad valorem*.⁴⁵

Initiation of LTFV Investigation

Based upon the examination of the Petition and supplemental questionnaire responses, we find that they meet the requirements of section 732 of the Act. Therefore, we are initiating an LTFV investigation to determine whether imports of tungsten shot from China are being, or are likely to be, sold in the United States at LTFV. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

Respondent Selection

In the Petition, the petitioner named 10 companies in China as producers and/or exporters of tungsten shot.⁴⁶ Our standard practice for respondent selection in AD investigations involving NME countries is to select respondents based on quantity and value (Q&V) questionnaires in cases where Commerce has determined that the number of companies is large, and it cannot individually examine each company based upon its resources. Therefore, considering the number of producers and/or exporters identified in the Petition, Commerce will solicit Q&V information that can serve as a basis for selecting exporters for individual

examination in the event that Commerce determines that the number is large and decides to limit the number of respondents individually examined pursuant to section 777A(c)(2) of the Act. Because there are 10 Chinese producers and/or exporters identified in the Petition, Commerce has determined that it will issue Q&V questionnaires to each potential respondent for which there is complete address information on the record.

Commerce will post the Q&V questionnaires along with filing instructions on Commerce's website at <https://www.trade.gov/ec-adcvd-case-announcements>. Producers/exporters of tungsten shot from China that do not receive Q&V questionnaires may still submit a response to the Q&V questionnaire and can obtain a copy of the Q&V questionnaire from Commerce's website. Responses to the Q&V questionnaire must be submitted by the relevant Chinese producers/exporters no later than 5:00 p.m. ET on August 20, 2024, which is two weeks from the signature date of this notice. All Q&V questionnaire responses must be filed electronically via ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the deadline noted above.

Interested parties must submit applications for disclosure under administrative protective order (APO) in accordance with 19 CFR 351.305(b). As stated above, instructions for filing such applications may be found on Commerce's website at <https://www.trade.gov/administrative-protective-orders>.

Separate Rates

In order to obtain separate rate status in an NME investigation, exporters and producers must submit a separate rate application. The specific requirements for submitting a separate rate application in an NME investigation are outlined in detail in the application itself, which is available on Commerce's website at <https://access.trade.gov/Resources/nme/nme-sep-rate.html>. The separate rate application will be due 30 days after publication of this initiation notice. Exporters and producers must file a timely separate rate application if they want to be considered for individual examination. Exporters and producers who submit a separate rate application and have been selected as mandatory respondents will be eligible for consideration for separate rate status only if they respond to all parts of Commerce's AD questionnaire as mandatory respondents. Commerce requires that companies from China

submit a response both to the Q&V questionnaire and to the separate rate application by the respective deadlines to receive consideration for separate rate status. Companies not filing a timely Q&V questionnaire response will not receive separate rate consideration.

Use of Combination Rates

Commerce will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that {Commerce} will now assign in its NME investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the {weighted average} of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁴⁷

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), a copy of the public version of the Petition has been provided to the Government of China via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petition to each exporter named in the Petition, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petition was filed, whether there is a reasonable indication that imports of tungsten shot from China materially retard the establishment of a U.S. industry, or that such imports are materially injuring, or threatening

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ See Petition at Volume I (page 6 and Exhibit I-6).

⁴⁷ See Enforcement and Compliance's Policy Bulletin No. 05.1, regarding, "Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation Involving NME Countries," (April 5, 2005), at 6 (emphasis added), available on Commerce's website at <https://access.trade.gov/Resources/policy/bull05-1.pdf>.

material injury to, a U.S. industry.⁴⁸ A negative ITC determination will result in the investigation being terminated.⁴⁹ Otherwise, this LTFV investigation will proceed according to statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce's regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted⁵⁰ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct.⁵¹ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in this investigation.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301, or as otherwise specified by Commerce.⁵² For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions

which are due from multiple parties simultaneously. In such a case, we will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, standalone submission; under limited circumstances we will grant untimely filed requests for the extension of time limits, where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning the extension of time limits and the *Time Limits Final Rule* prior to submitting factual information in this investigation.⁵³

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁵⁴ Parties must use the certification formats provided in 19 CFR 351.303(g).⁵⁵ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in this investigation should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letter of appearance). Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).⁵⁶

This notice is issued and published pursuant to sections 732(c)(2) and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: August 6, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix

Scope of the Investigation

The merchandise covered by the investigation is certain tungsten spheres or balls, also known as shot, that are 92.6 percent or greater tungsten by weight, not including the weight of any additional coating. In scope shot have a diameter ranging from 1.5 millimeters (mm) to 10.0 mm. Subject shot can be referred to as "Tungsten Super Shot." Merchandise is covered regardless of the combination of compounds that comprise the non-tungsten material and whether or not the tungsten shot is additionally coated with another material, including but not limited to copper, nickel, iron, or metallic alloys.

Tungsten shot subject to the investigation may be classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheading: 9306.29.0000. Merchandise may also be entered under HTSUS subheading 8101.99.8000. The HTSUS subheadings are provided for convenience and customs purposes only. The written description of the scope of the investigation is dispositive.

[FR Doc. 2024–18008 Filed 8–12–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–067]

Forged Steel Fittings From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission of Review, in Part; 2022–2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that Yingkou Guangming Pipeline Industry Co., Ltd. (Yingkou Guangming), the sole mandatory respondent in this review and an exporter of forged steel fittings from People's Republic of China (China), has not established its eligibility for a separate rate, and is therefore part of the China-wide entity. Commerce also preliminarily determines that Jiangsu Forged Pipe Fittings Co., Ltd. (Jiangsu Forged) is also not eligible for a separate rate and is thus part of the China-wide entity. Further, Commerce is rescinding the administrative review with respect to Qingdao Bestflow Industrial Co., Ltd. (Qingdao Bestflow) and Xin Yi

⁴⁸ See section 733(a) of the Act.

⁴⁹ *Id.*

⁵⁰ See 19 CFR 351.301(b).

⁵¹ See 19 CFR 351.301(b)(2).

⁵² See 19 CFR 351.301; see also *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013) (*Time Limits Final Rule*), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>.

⁵³ See 19 CFR 351.302; see also, e.g., *Time Limits Final Rule*.

⁵⁴ See section 782(b) of the Act.

⁵⁵ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*). Additional information regarding the *Final Rule* is available at <https://access.trade.gov/Resources/filing/index.html>.

⁵⁶ See *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069 (September 29, 2023).

International Trade Co. Ltd. (Xin Yi). Interested parties are invited to comment on these preliminary results.

DATES: Applicable August 13, 2024.

FOR FURTHER INFORMATION CONTACT: Hannah Lee or Robert Palmer, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-1216 and (202) 482-9068, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 2023, Commerce published the notice of initiation of this administrative review, covering four companies.¹ On March 27, 2024, Commerce selected Yingkou Guangming as a mandatory respondent, as it was the only remaining company under review that submitted a separate rate application (SRA) or a separate rate certification (SRC).² On March 29, 2024, Commerce issued Yingkou Guangming the standard non-market economy (NME) antidumping duty questionnaire.³ On April 19, 2024, Yingkou Guangming notified Commerce of its intent not to participate in this administrative review.⁴ On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.⁵ The deadline for the preliminary results is now August 8, 2024.

For a complete description of the events that followed the initiation of this administrative review, *see* the Preliminary Decision Memorandum.⁶ 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>.

Scope of the Order⁷

The merchandise covered by the *Order* is carbon and alloy forged steel fittings, whether unfinished (commonly known as blanks or rough forgings) or finished. Subject carbon and alloy forged steel fittings are normally entered under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7307.99.1000, 7307.99.3000, 7307.99.5045, and 7307.99.5060. They also may be entered under HTSUS subheadings 7307.92.3010, 7307.92.3030, 7307.92.9000, and 7326.19.0010. The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope 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 Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Partial Rescission of Administrative 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 January 8, 2024, Bonney Forge Corporation (the petitioner), withdrew its request for review for Qingdao Bestflow and Xin Yi.⁸ No other party requested a review of these exporters. Therefore, Commerce is rescinding this review with respect to Qingdao Bestflow and Xin Yi, pursuant to 19 CFR 351.213(d)(1).

⁷ *See Forged Steel Fittings from Italy and the People's Republic of China: Antidumping Duty Orders*, 83 FR 60397 (November 26, 2018) (*Order*).

⁸ *See* Petitioner's Letter, "Withdrawal of Requests for Administrative Reviews," dated January 24, 2024.

Separate Rates

Commerce preliminarily finds that Jiangsu Forged did not establish its eligibility for a separate rate because it failed to provide an SRA or SRC. Commerce also preliminarily finds that Yingkou Guangming did not establish its eligibility for a separate rate. While Yingkou Guangming submitted an SRA, it did not respond to the antidumping duty questionnaire.⁹ As stated in the *Initiation Notice*, companies that submit an SRA or SRC which are subsequently selected as mandatory respondents must respond to all parts of Commerce's questionnaire in order to be eligible for separate-rate status.¹⁰ As such, we preliminarily determine that Jiangsu Forged and Yingkou Guangming are part of the China-wide entity. For additional information, *see* the Preliminary Decision Memorandum.

The 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 and Commerce initiates, or Commerce self-initiates, a review of the China-wide entity.¹² Because no party requested a review of the China-wide entity and Commerce did not self-initiate a review of the China-wide entity for this review period, the China-wide entity is not under review and the China-wide entity's rate (*i.e.*, 142.72 percent) is not subject to change.¹³ For additional information, *see* the Preliminary Decision Memorandum.

Disclosure and Public Comment

Normally, Commerce discloses to interested parties the calculations performed in preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, as we have determined all companies under review, and not rescinded herein, to be part of the China-wide entity, and there were no calculations performed for the

⁹ *See* Intent Not to Participate.

¹⁰ *See Initiation Notice*, 88 FR at 90169–70.

¹¹ *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).

¹² *Id.*

¹³ *See Order*, 83 FR at 60397.

¹ *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 90168 (December 29, 2023) (*Initiation Notice*).

² *See* Memorandum, "Respondent Selection," dated March 27, 2024; *see also Initiation Notice*, 88 FR at 90168, 90170 ("Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for individual examination.").

³ *See* Commerce's Letter, "Request for Information," dated March 29, 2024 (NME Questionnaire).

⁴ *See* Yingkou Guangming's Letter, "Yingkou Notice of Intent Not to Participate," dated April 19, 2024 (Intent Not to Participate).

⁵ *See* Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated July 22, 2024.

⁶ *See* Memorandum, "Decision Memorandum for the Preliminary Results of the Antidumping Duty Administrative Review of Forged Steel Fittings from the People's Republic of China; 2022–2023," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

mandatory respondent, there are no calculations to disclose.

Pursuant to 19 CFR 351.309(c)(ii), interested parties may submit a case brief no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹⁴ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁵

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁶ Further, we request that interested parties limit their executive summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁷

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.

¹⁴ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Final Service Rule*).

¹⁵ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁶ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁷ See *APO and Final Service Rule*.

Final Results of Review

Unless the deadline is extended, 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 publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

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 date of 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).

If we continue to find in the final results that Jiangsu Forged and Yingkou Guangming are ineligible for a separate rate and are, therefore, considered part of the China-wide entity, we will instruct CBP to apply an antidumping duty assessment rate of 142.72 percent (*i.e.*, the rate for the China-wide entity) to all entries of subject merchandise during the POR which were exported by those companies.

For Qingdao Bestflow and Xin Yi, for which Commerce is rescinding this administrative review, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP no earlier than 35 days after the date of publication of this notice (*see* Appendix III).

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)(C) of the Act: (1) for previously investigated or reviewed Chinese and non-Chinese exporters for

which a review was not requested and that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) 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.*, 142.72 percent); and (3) for all non-Chinese exporters of subject merchandise that have not received their own 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, and 19 CFR 351.221(b)(4).

Dated: August 6, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Partial Rescission of Review
- V. Discussion of the Methodology
- VI. Recommendation

Appendix II

Companies Preliminarily Not Eligible for a Separate Rate and Treated as Part of the China-Wide Entity

1. Jiangsu Forged Pipe Fittings Co., Ltd.
2. Yingkou Guangming Pipeline Industry Co., Ltd.

¹⁸ See 19 CFR 351.212(b)(1).

Appendix III

Companies Rescinded from Review

1. Qingdao Bestflow Industrial Co., Ltd.
2. Xin Yi International Trade Co. Ltd.

[FR Doc. 2024–18001 Filed 8–12–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–837]

Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Rescission of Review, in Part; 2022–2023

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 (AD) order on polyethylene terephthalate film, sheet, and strip (PET Film) from Taiwan. The period of review (POR) is July 1, 2022, through June 30, 2023. This review covers the following producers and exporters from Taiwan: Nan Ya Plastics Corporation (Nan Ya); and Shinkong Materials Technology Corporation (SMTC)/Shinkong Synthetic Fibers Corporation (SSFC). Commerce preliminarily determines that sales of subject merchandise have not been made below normal value (NV) by Nan Ya during the POR. In addition, we preliminarily find that SMTC/SSFC had no shipments during the POR. Interested parties are invited to comment on these preliminary results.

DATES: Applicable August 13, 2024.

FOR FURTHER INFORMATION CONTACT: Charles DeFilippo, 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) 482–3797.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2023, Commerce published in the **Federal Register** a notice of opportunity¹ to request an administrative review of the AD order on PET film from Taiwan.² On

September 11, 2023, in accordance with 19 CFR 351.221(c)(1)(i), Commerce published a notice of initiation of an administrative review of the *Order*.³

On March 27, 2024, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.213(h)(2), Commerce extended the due date for the preliminary results until June 28, 2024.⁴ On June 20, 2024, Commerce extended the preliminary results until July 30, 2024.⁵ On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.⁶ The deadline for the preliminary results is now August 6, 2024.

For a complete description of the events that followed the initiation of this review, see the Preliminary Decision Memorandum.⁷ A list of the topics included in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The merchandise subject to the *Order* is PET film. A complete description of the scope of the *Order* is provided in the Preliminary Decision Memorandum.

Preliminary Determination of No Shipments and Preliminary Partial Rescission

On October 6, 2023, Commerce placed U.S. Customs and Border Protection (CBP) entry data for U.S. imports of PET

Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan, 67 FR 44174 (July 1, 2002) (*Order*).

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 88 FR 62322 (September 11, 2023).

⁴ See Memorandum, “Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated March 27, 2024.

⁵ See Memorandum, “Second Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated June 20, 2024.

⁶ See Memorandum, “Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,” dated July 22, 2024.

⁷ See Memorandum, “Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments: Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan; 2022–2023” dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

film from Taiwan during the POR, which showed that SMTC/SSFC⁸ did not make any shipments of PET Film during the POR.⁹ Therefore, the record demonstrates that SMTC/SSFC had no shipments during the POR. On this basis, we are preliminarily rescinding the review with respect to SMTC/SSFC, and will issue appropriate instructions to CBP based on the final results of this review.¹⁰ For additional information regarding this determination, see the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(B) and (2) of the Act. Export price is 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 these preliminary results, see the Preliminary Decision Memorandum.

Preliminary Results of Review

As a result of this review, Commerce preliminarily determines that the following estimated weighted-average dumping margin exists for the period July 1, 2022, through June 30, 2023:

Producer/exporter	Weighted-average dumping margin (percent)
Nan Ya Plastics Corporation	0.00

Disclosure and Public Comment

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

⁸ In the 2011–2012 administrative review, we treated SMTC and SSFC as a single entity. See *Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan; Preliminary Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 48651 (August 9, 2013), and accompanying Preliminary Decision Memorandum, unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Final Results of Antidumping Duty Administrative Review; 2011–2012*, 79 FR 11407 (February 28, 2014). We have treated SMTC and SSFC as a single entity in all subsequent reviews. There is no information on the record of this administrative review that would lead Commerce to reconsider that determination. Accordingly, we continue to treat SMTC and SSFC as a single entity for purposes of this administrative review.

⁹ See Memorandum, “Release of U.S. Customs Entry Data for Respondent Selection; 2022–2023,” dated October 6, 2023.

¹⁰ We invite interested parties to comment on the preliminary rescission.

¹ See *Antidumping or Countervailing Duty Order, Finding or Suspended Investigation; Opportunity to Request Administrative Review*, 88 FR 42693 (July 3, 2023).

² See *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and*

Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs to Commerce. A timeline for the submission of case briefs and written comments will be notified to parties at a later date. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.¹¹ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹²

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹³ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹⁴

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5 p.m. Eastern Time within

30 days after the date of publication of this notice.

Final Results of Review

Unless extended, 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 this notice, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Verification

As provided in section 782(i)(3) of the Act, Commerce intends to verify the information relied upon for the final results.

Assessment Rates

Upon completion of this administrative review, Commerce shall determine, and CBP shall assess, antidumping duties on all appropriate entries in accordance with 19 CFR 351.212(b). If a respondent's weighted-average dumping margin is not zero or *de minimis* (i.e., less than 0.5 percent) in the final results of this review, we will calculate importer-specific assessment rate on the basis of the ratio of the total amount of dumping calculated for an importer's examined sales and the total entered value of such sales in accordance with 19 CFR 351.212(b)(1).¹⁵ If the weighted-average dumping margin is zero or *de minimis* in the final results of review, or an importer-specific rate is zero or *de minimis*, we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.¹⁶

For entries of subject merchandise during the POR produced by an individually examined respondent for which it did not know its merchandise was destined for the United States, we intend to instruct CBP to liquidate such entries at the all-others rate (i.e., 2.40 percent) if there is no rate for the intermediate company(ies) involved in the transaction.¹⁷

Commerce intends to issue assessment instructions to CBP no

earlier than 35 days after the date of publication of the final results of this administrative review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (i.e., within 90 days of publication). 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 cash deposits of estimated antidumping duties, where applicable.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of PET film from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for Nan Ya will be the rate established in the final results of this review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for previously reviewed or investigated companies not listed above, 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 less-than-fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other producers or exporters is 2.40 percent.¹⁸ 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 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 preliminary results in accordance with

¹¹ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹² See 19 CFR 351.309(c)(2) and (d)(2).

¹³ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

¹⁴ See *APO and Service Final Rule*.

¹⁵ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

¹⁶ See section 751(a)(2)(C) of the Act.

¹⁷ For a full discussion of this practice, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

¹⁸ See *Order*.

sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: August 5, 2024.

Scot Fullerton,

*Acting Deputy Assistant Secretary for
Antidumping and Countervailing Duty
Operations.*

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Preliminary Determination of No Shipments and Preliminary Rescission of Review, in Part
- V. Discussion of the Methodology
- VI. Currency Conversion
- VII. Recommendation

[FR Doc. 2024–18000 Filed 8–12–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–810]

Stainless Steel Bar From India: Preliminary Results of New Shipper Review; 2023

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) is conducting a new shipper review (NSR) of Welspun Specialty Solutions Limited (Welspun) regarding the antidumping duty (AD) order on stainless steel bar (SS Bar) from India. The period of review (POR) is February 1, 2023, through July 31, 2023. We have preliminarily determined that Welspun's sales were *bona fide* transactions and were not made below normal value (NV). Interested parties are invited to comment on these preliminary results.

DATES: Applicable August 13, 2024.

FOR FURTHER INFORMATION CONTACT: Joshua Weiner, 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) 482–3902.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1995, Commerce published in the **Federal Register** the antidumping duty order on SS Bar from India.¹ On August 31, 2023, pursuant to

¹ See *Antidumping Duty Orders: Stainless Steel Bar from Brazil, India and Japan*, 60 FR 9661 (February 21, 1995) (*Order*).

section 751(a)(2)(B)(i) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(c), Commerce received a timely NSR request from Welspun.² Based on Welspun's NSR request and supplemental information, we published in the **Federal Register** a notice of initiation of the NSR. On March 5, 2024, Commerce extended the deadline to issue the preliminary results of this NSR by 120 days, to July 25, 2024, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2).³ On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.⁴ The deadline for the preliminary results is now August 1, 2024.

For a complete description of the events that followed the initiation of this NSR, see the Preliminary Decision Memorandum.⁵ A list of topics included in the Preliminary Decision Memorandum is included as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Order

The product covered by the *Order* is SS Bar from India. For a complete description of the scope of the *Order*, see the Preliminary Decision Memorandum.

Methodology

Commerce conducted this review in accordance with section 751 of the Act. For a full description of the methodology underlying the preliminary results, see the Preliminary Decision Memorandum.

Verification

As provided in 19 CFR 351.307(b)(iv), Commerce verified the information

² See Welspun's Letter, "Request for New Shipper Review," dated August 31, 2023.

³ See Commerce's Letter, "Extension of Deadline for Preliminary Results," dated March 5, 2024.

⁴ See Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated July 22, 2024.

⁵ See Memorandum, "Decision Memorandum for the Preliminary Results in the New Shipper Review of Welspun" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

submitted by Welspun in advance of these preliminary results.⁶

Preliminary Results of NSR

As a result of this NSR, Commerce preliminarily determines the following estimated weighted-average dumping margin exists for the period, February 1, 2023, through July 31, 2023.

Exporter/producer	Weighted-average dumping margin (percent)
Welspun Specialty Solutions Limited	0.00

Disclosure and Public Comment

Commerce intends to disclose its calculations and analysis performed to interested parties in these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than thirty days after the publication of the **Federal Register** notice regarding these preliminary results.⁷ Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.⁸ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.⁹

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this NSR, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹⁰ Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, not

⁶ See Memorandum, "Verification of the Questionnaire Sales Responses," dated July 16, 2024 (Verification Report).

⁷ See 19 CFR 351.309(c)(ii).

⁸ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

⁹ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁰ We use the term "issue" here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this NSR. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹¹

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and 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.

An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.¹²

Commerce intends to issue the final results of this NSR, including the results of its analysis of issues raised in any written briefs, no later than 90 days after the date of issuance of these preliminary results, unless extended, pursuant to section 751(a)(2)(B)(iv) of the Act.

Assessment Rates

Upon issuing the final results of this review, Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.¹³ If the respondent's weighted-average dumping margin is zero or *de minimis* in the final results, Commerce will instruct CBP to liquidate the appropriate entries without regard to duties. If the respondent's weighted-average dumping margin is above *de minimis* (i.e., 0.5 percent) in the final results of this review, Commerce will calculate importer-specific (or customer-specific) assessment rates on the basis of the ratio of the total amount of dumping

calculated for the importer's examined sales to the total entered value of those sales, in accordance with 19 CFR 351.212(b)(1). If an importer-specific rate is zero or *de minimis*, Commerce will instruct CBP to liquidate the appropriate entries without regard to antidumping 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 NSR 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 Instructions

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from India 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 subject merchandise produced and exported by Welspun, the cash deposit rate will be the rate established for Welspun in the final results of this NSR (except, if the rate is zero or *de minimis*, then no cash deposit will be required);¹⁴ (2) for subject merchandise exported by Welspun, but not produced by Welspun, the cash deposit rate will be the producer's rate, or the all others rate (i.e., 12.45 percent)¹⁵ if the producer does not have its own rate; and (3) for subject merchandise produced by Welspun, but not exported by Welspun, the cash deposit rate will be the rate applicable to the exporter, or the all other's rate if the exporter does not have its own rate. 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) 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 preliminary results of NSR in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act and 19 CFR 351.214.

Dated: August 1, 2024.

Ryan Majerus,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of Methodology
- V. Currency Conversion
- VI. Recommendation

[FR Doc. 2024-17999 Filed 8-12-24; 8:45 am]

BILLING CODE 3510-DS-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Privacy Act of 1974; System of Records

AGENCY: Corporation for National and Community Service.

ACTION: Notice of modified systems of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Office of the Chief Program Officer of the Corporation for National and Community Service (operating as AmeriCorps) is issuing a public notice of its intent to modify a system of records, "CNCS-04-CPO-MMF-Member Management Files System," which will be renamed "CNCS-04-CPO-MPMF Members Program Management Files System of Records". The Office of the Chief Program Officer maintains CNCS-04-CPO-MMF-Member Management Files System, which contains information of individuals who apply to become an AmeriCorps service member (Applicants) and those who are or have been an active AmeriCorps service member (Members). The revisions update the system name, the purpose of the system, categories of records, categories of individuals, system managers, system location, and the routine uses of the system to reflect and meet new program management needs

¹¹ See APO and Service Final Rule.

¹² See 19 CFR 351.310(c).

¹³ See 19 CFR 351.212(b).

¹⁴ See *Certain Cut-To-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Preliminary Results of Antidumping Duty Administrative and New Shipper Reviews and Rescission of Administrative Review, In Part; 2014-2015*, 81 FR 12870 (March 11, 2016).

¹⁵ See *Order*, 60 FR at 9661.

to promote and support Members and volunteer service and track the career pathway development of AmeriCorps Members, volunteers, and alumni.

DATES: Any comments must be received on or before September 12, 2024. Unless comments are received that would require a revision, this modified system of records will become effective on September 12, 2024.

ADDRESSES: You may submit comments identified by system name and number by any of the following methods:

1. Electronically through *regulations.gov*. Once you access *regulations.gov*, find the web page for this SORN by searching for AmeriCorps-04-CPO-MPMF-Member Management Files System.
2. By email at *privacy@americorps.gov*.
3. By mail: AmeriCorps, Attn: Bilal Razzaq, Chief Privacy Officer, OIT, 250 E Street SW, Washington, DC 20525.
4. By hand delivery or courier to AmeriCorps at the address for mail between 9:00 a.m. and 4:00 p.m. Eastern Standard Time, Monday through Friday, except for federal holidays.

Please note that all submissions received may be posted without change to *regulations.gov*, including any personal information. Commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: If you have general questions about the system of records, please contact ZhuoHong Liu at *zliu@americorps.gov*, by phone at 202-938-7868, or mail them to the address in the **ADDRESSES** section above. Please include the system of records' name and number.

SUPPLEMENTARY INFORMATION: AmeriCorps proposes to amend the existing system of records, CNCS-04-CPO-MMF-Member Management Files System, which was last published in the **Federal Register** at 85 FR 3896 (January 23, 2020).

The proposed revisions:

- Rename the system of records as CNCS-04-CPO-MPMF Members Program Management Files System of Records.
- Add new Routine Uses 35, 36, and 37 to meet the programmatic needs of AmeriCorps.
- Add tracking and supporting of the post-service career pathway development of AmeriCorps alumni as a purpose of the system.
- Add categories of the records to include information on AmeriCorps alumni post-service career pathways.
- Add categories of individuals to include alumni who have chosen to

continuously participate in AmeriCorps' collaborative programs with other Federal, State, local agencies or Tribes.

- Add the Chief Data Officer of AmeriCorps as one of the system managers.
 - Update the system locations to include the Office of Chief Data Officer.
- In accordance with 5 U.S.C. 552a(r), AmeriCorps has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER:

CNCS-04-CPO-MPMF-Member Program Management Files System of Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system of records is maintained by the Office of the Chief Data Officer and the Office of the Chief Program Officer. Located at AmeriCorps, 250 E Street SW, Washington, DC 20525.

SYSTEM MANAGER(S):

Chief Program Officer, Chief Program Officer Immediate Office; Chief Data Officer. AmeriCorps, 250 E Street SW, Washington, DC 20525.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. chapter 129—National and Community Service, 42 U.S.C. chapter 66—Domestic Volunteer Services, and Executive Order 9397, as amended.

PURPOSE(S) OF THE SYSTEM:

AmeriCorps uses the system to select, place, manage, oversee, and support individuals who apply to become an AmeriCorps service member (Applicants), and those who are or have been an active AmeriCorps service member (Members). AmeriCorps also uses the system to track and support the post-service career pathway development of AmeriCorps alumni who continuously show interest or/and actively participate in AmeriCorps' collaborative programs with other Federal, State, or local agencies or Tribes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains records about individuals who apply to become an AmeriCorps service member, individuals who are or have been an active AmeriCorps service member, individuals from the public asked to provide a reference for those individuals (References), and AmeriCorps alumni.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories cover records about Applicants, Members, alumni, and their references. It may contain personal identifiers including name, email addresses, physical addresses, phone numbers, Social Security Number, demographic information (including race, ethnicity, and any disabilities), birth date and location, username and password, National Service Participation Identification number (NSPID), marital status, fingerprints, citizenship status, government-provided identification documents, and information about post-service positions, including their relation to completed AmeriCorps' service and points of service times.

It may contain information about each Applicant's, Member's, and alumnus's:

- Application to become a member (e.g., reason for applying, educational history, employment history, military history, prior community service activities, criminal history, medical history, skills, certifications, voter registration status);
- Relatives who served in AmeriCorps and the military;
- AmeriCorps service history and experience (e.g., descriptions of activities, performance reviews, disciplinary concerns, accidents and other health concerns related to service, special accommodations, living arrangements, leave requests, service-related travel and trainings);
- Benefits (e.g., health benefits, childcare benefits, Education Awards, stipends, loan forbearance);
- Oath of office, plus other certifications and consents;
- Living allowances, reimbursements, and banking information;
- Emergency contacts and beneficiaries;
- Automobile and driving history (including insurance coverage and any accidents);
- Post-service plans and interest in alumni activities; and
- Information about post-service career pathway development.

It may also contain communications with and about each Applicant, Member, and alumnus.

The system may also contain each references' name, email, title, employer, address, phone number, relationship to the Applicant or Member, and assessment of the Applicant or Member.

RECORD SOURCE CATEGORIES:

The sources of records in the system may include, but are not limited to, Applicants, Members, alumni, references (including those selected by an Applicant or Member, parole officers,

prior workplace supervisors), institutions that may receive an Education Award, organizations that request and receive Members (project sponsors), AmeriCorps employees and contractors, other AmeriCorps systems, the Social Security Administration (SSA), Department of Justice (DOJ) criminal history databases, Congresspersons and their staff, members of the public, and other Federal, State, local agencies or Tribes who have collaborative programs with AmeriCorps.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, all or a portion of the records or information contained in the system may be disclosed to authorized entities, as is determined to be relevant and necessary, as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the SSA to confirm an Applicant's or Member's citizenship status.
2. To the DOJ to obtain an Applicant's or Member's criminal history information.
3. To Project Sponsors to recruit, select, place, manage, oversee, and support Members.
4. To a Member's emergency contacts and beneficiaries if that Member experiences an emergency or death.
5. To the Department of the Treasury to pay living allowances, reimbursements, and Education Awards.
6. If a Member asks to send all or part of their Education Award to an institution, AmeriCorps may disclose information from the system to confirm and coordinate the Member's request.
7. All records about FEMA Corps Members may be shared with the Federal Emergency Management Agency to operate FEMA Corps and manage those Members.
8. To other Members for alumni-related activities when the Member gives permission.
9. To the Office of the President, a Member of Congress, or their personnel in response to a request made on behalf of, and at the request of, the individual who is the subject of the record. These advocates will receive the same records that individuals would have received if they filed their own request.
10. To any component of the Department of Justice for the purpose of representing AmeriCorps or its components, officers, employees, or members in pending or potential

litigation to which the record is pertinent.

11. In an appropriate proceeding before a court, judicial, administrative, or adjudicative body, or official, when AmeriCorps or another agency representing AmeriCorps determines the records are relevant and necessary to the proceeding, or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

12. To a Federal or State agency, judicial, administrative, or adjudicative body, another party, or their representative to a legal matter, or witness when (a) the Federal Government is a party or potential party to a judicial, administrative, or adjudicative proceeding and (b) the record is both necessary and relevant or potentially relevant to that proceeding.

13. To prospective claimants and their attorneys to negotiate a settlement of an actual or prospective claim against AmeriCorps or its current or former employees, in advance of the initiation of a formal legal proceeding.

14. To an arbiter, mediator, or another individual authorized to investigate or settle a grievance, complaint, or appeal filed by an individual who is the subject of, or party to, the record.

15. To any agency, entity, or individual when necessary to acquire information relevant to an investigation.

16. To an appropriate Federal, State, local, Tribal, international, or foreign law enforcement agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a statute, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates a violation or potential violation of civil or criminal law or regulatory violations.

17. To a former AmeriCorps employee for the purpose of responding to an official inquiry by a Federal, State, local, territorial, or tribal entity or professional licensing authority, for the purpose of facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where AmeriCorps requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

18. To unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, the Merit Systems Protection Board, arbitrators, the Federal Labor Relations Authority, and other parties responsible for the administration of the Federal labor-

management program for the purpose of processing any corrective actions, or grievances, or conducting administrative hearings or appeals.

19. To the Merit Systems Protection Board and the Office of the Special Counsel for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems; review of Office of Personnel Management (OPM) or component rules and regulations; investigation of alleged or possible prohibited personnel practices, including administrative proceedings involving any individual subject of an AmeriCorps investigation.

20. To OPM for the purpose of addressing civilian pay and leave, benefits, retirement deduction, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

21. To appropriate agencies, entities, and persons when:

- a. AmeriCorps suspects or has confirmed that there has been a breach of the system of records;
- b. AmeriCorps has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, AmeriCorps (including its information systems, programs, and operations), the Federal Government, or national security; and
- c. The disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with AmeriCorps' efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

22. To another Federal agency or Federal entity, when AmeriCorps determines that information from the system of records is reasonably necessary to assist the recipient agency or entity in:

- a. Responding to a suspected or confirmed breach or
- b. Preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

23. To the National Archives and Records Administration (NARA) as needed to assist AmeriCorps with records management, conduct inspections of AmeriCorps' records management practices, and carry out other activities required by 44 U.S.C. 2904 and 2906.

24. To NARA's Office of Government Information Services so that it may

review agency compliance with the Freedom of Information Act of 1967, as amended (FOIA), provide mediation services to resolve FOIA disputes, and identify policies and procedures for improving FOIA compliance, and to the extent necessary to fulfill its responsibilities as required by 5 U.S.C. 552(h)(2)(A–B) and (3).

25. To respond to a FOIA request per the processes established in 45 CFR part 2507 or a Privacy Act request per the requirements in 45 CFR part 2508.

26. To a Federal agency in connection with hiring or retaining an employee, vetting an applicant, member, or employee in response to the issuance of a security clearance, conducting a background check for suitability or security investigation of an individual, classifying jobs, the letting of a contract, or the issuance of a license, contract, grant, or other benefit by the requesting agency, and to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

27. To agency contractors, grantees, project sponsors, interns, and other authorized individuals engaged to assist the agency in the performance of a project, contract, service, grant, cooperative agreement, or other activity when it requires access to the records to accomplish an agency function, task, or assignment. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to AmeriCorps employees.

28. To the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

29. To an agency or organization to audit or oversee AmeriCorps' or a vendor's operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

30. To any official or designee charged with the responsibility to conduct qualitative assessments at a designated statistical agency and other well established and trusted public or private research organizations, academic institutions, or agencies for an evaluation, study, research, or other analytical or statistical purpose.

31. To a contractor, grantee, or other recipient of Federal funds when the

record to be released reflects serious inadequacies with the recipient's personnel, and disclosure of the record permits the recipient to effect corrective action in the Federal Government's best interests.

32. To a contractor, grantee, or other recipient of Federal funds indebted to the Federal Government through its receipt of Federal funds if release of the record would allow the debtor to collect from a third party.

33. To consumer reporting agencies (as defined in the Fair Credit Reporting Act, or the Federal Claims Collection Act of 1966, 31 U.S.C. 3701(a)(3)), the U.S. Department of the Treasury, other Federal agencies maintaining debt servicing centers, and private collection contractors to collect a debt owed to the Federal Government as provided in regulations promulgated by AmeriCorps.

34. To the news media and the public, with the approval of the Chief Privacy Officer in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of AmeriCorps, or when disclosure is necessary to demonstrate the accountability of AmeriCorps officers, employees, or individuals covered by the system, except to the extent the Chief Privacy Officer determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

35. To Federal, State, local agencies, or tribal entities that have collaborative relations with AmeriCorps for program development and recruitment.

36. To an entity that AmeriCorps members, volunteers, or alumni consent to share service information with for post-service career pathway development, tracking, study, or reference.

37. To a third party with valid authorization from an AmeriCorps member to share information regarding the duration and description of the authorized benefits that a member receives from AmeriCorps.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

AmeriCorps stores paper records in locked rooms, file cabinets, and desks. Electronic records and backups are stored on secure servers and encrypted media to include computers and network drives.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in the system may be retrieved by any of the personal identifiers listed or described in CATEGORIES OF RECORDS IN THE SYSTEM.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

All records in the system will be retained until their retention and disposal schedule is approved by NARA, then retained and disposed according to the applicable schedule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

AmeriCorps safeguards records in this system according to applicable laws, rules, and policies, including all applicable AmeriCorps automated systems security and access policies. AmeriCorps has strict controls in place to minimize the risk of compromising the information that is being stored. Access to the computer system containing the records in this system is limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

In accordance with 45 CFR part 2508—Implementation of the Privacy Act of 1974, as amended, individuals wishing to access their own records stored within the system of records may contact the FOIA Officer/Privacy Act Officer by sending (1) an email to FOIA@americorps.gov or (2) a letter addressed to the System Manager, Attention: Privacy Inquiry. Individuals who make a request must include enough identifying information to locate their records and reasonably confirm their identity, as required by 45 CFR part 2508, and indicate that they want to access their records.

CONTESTING RECORD PROCEDURES:

All requests to contest or amend information maintained in the system will be directed to the FOIA Officer/Privacy Act Officer. Individuals who make a request must include enough identifying information to locate their records, in the manner described above in the Record Access Procedures section. Requests should state clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

NOTIFICATION PROCEDURES:

Any individual desiring to contest or amend information not subject to

exemption may contact the FOIA Officer/Privacy Act Officer via the contact information in the Record Access Procedures section. Individuals who make a request must include enough identifying information to locate their records, indicate that they want to be notified whether their records are included in the system, and confirm their identity as required by 45 CFR part 2508.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

CNCS-04-CPO-MMF-Member Management Files System issued 85 FR 3896 (January 23, 2020).

Prabhjot Bajwa,

Senior Agency Official for Privacy and Chief Information Officer.

[FR Doc. 2024-17951 Filed 8-12-24; 8:45 am]

BILLING CODE 6050-28-P

DEPARTMENT OF DEFENSE**Department of the Navy****Education for Seapower Advisory Board; Notice of Federal Advisory Committee Meeting**

AGENCY: Department of the Navy (DoN), Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Education for Seapower Advisory Board (E4SAB) will take place.

DATES: The meeting is open to the public and will be held on Wednesday, August 28, 2024 from 9 a.m. to 5 p.m. Eastern Time Zone (ET).

ADDRESSES: The open meeting will be held at the U.S. Naval Academy, Annapolis, Maryland. The meeting will be handicap accessible. Escort is required.

FOR FURTHER INFORMATION CONTACT: Dr. Kendy Vierling, Designated Federal Officer (DFO), Office of the Assistant Secretary of the Navy (Manpower and Reserve Affairs), Pentagon, Washington, DC 20350-1000, 703-695-4589, kendy.k.vierling.civ@us.navy.mil.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of Title 5, United States Code (U.S.C.) (commonly known as “the Federal Advisory Committee Act” or “FACA”), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and

Title 41 Code of Federal Regulations (CFR) 102-3.140 and 102-3.150. Due to circumstances beyond the control of the Designated Federal Officer and the Department of Defense, the Education for Seapower Advisory Board was unable to provide public notification required by 41 CFR 102-3.150(a) concerning its August 28, 2024 meeting. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102-3.150(b), waives the 15-calendar day notification requirement.

Purpose of the Meeting: The purpose of the meeting is to receive updates and engage in discussions pertaining to naval education programs, talent management, and other matters as determined by the DoD, the Secretary of Defense, the Deputy Secretary of Defense, or the Secretary of the Navy (SECNAV).

Agenda: On August 28, 2024, SECNAV and DoN leadership may provide comments on DoD talent management and naval education programs. The E4SAB will discuss naval education programs and talent management, curricula and capstone activities, and provide a panel of United States Naval Community College (NCC) students to discuss their educational experiences. The E4SAB will receive updates and recommendations from its three subcommittees pertaining to aspects of accreditation requirements, operations, and administrative policies of the United States Naval War College (NWC), Naval Post Graduate School (NPS), and NCC.

Availability of Materials for the Meeting: A copy of the agenda or any updates to the agenda for the August 28, 2024 meeting, as well as supporting documents, can be found on the website: <https://www.secnave4sab.mil/mra/e4sab>.

Meeting Accessibility: Pursuant to section 1009(a)(1) of title 5 U.S.C. and 41 CFR 102-3.140 through 102-3.165, this meeting is open to all members of the public, from 9 a.m. to 5 p.m. (ET) on August 28, 2024. Those who wish to attend the meeting in person may attend on a space available basis from 9 a.m. to 5 p.m. (ET). Persons desiring to attend the meeting are required to submit their name, organization, email address, and telephone contact information to Ms. Tiphany Morales at tiphany.e.morales.civ@us.navy.mil no later than Monday, August 19, 2024.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Ms. Tiphany Morales at tiphany.e.morales.civ@us.navy.mil no later than Monday, August 19, 2024 (by

5 p.m. ET) so that appropriate arrangements can be made.

Written Statements: Pursuant to 41 CFR 102-3.105 and 102-3.140, and section 1009(a)(3) of title 5 U.S.C., written statements to the committee may be submitted at any time or in response to a stated planned meeting agenda by email to Dr. Kendy Vierling at kendy.k.vierling.civ@us.navy.mil with the subject line, “Comments for E4SAB Meeting.” Written comments pertaining to a specific topic being discussed at the planned meeting received no later than 5:00 p.m. (ET) on Friday, August 23, 2024 will be distributed to the E4SAB, in the order received. Comments pertaining to the agenda items will be discussed during the public meeting. Any written statements received after the deadline may not be provided to, or considered by, the Committee during the August 28, 2024 meeting, but may be provided to the members of the E4SAB prior to the next scheduled meeting. Any comments received by the E4SAB will be posted on the website <https://www.secnave4sab.mil/mra/e4sab>.

Dated: August 8, 2024.

J.E. Koningisor,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2024-18020 Filed 8-12-24; 8:45 am]

BILLING CODE 3810-FF-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2023-SCC-0192]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Entry Evaluation & Exit Evidence Forms

AGENCY: Office of the Secretary (OS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a new information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before September 12, 2024.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link www.reginfo.gov/public/do/PRAMain to access the site. Find this

information collection request (ICR) by selecting “Department of Education” under “Currently Under Review,” then check the “Only Show ICR for Public Comment” checkbox. Reginfo.gov provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the “View Information Collection (IC) List” link. Supporting statements and other supporting documentation may be found by clicking on the “View Supporting Statement and Other Documents” link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Cleveland Knight, 202–987–0064.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Entry Evaluation & Exit Evidence Forms.

OMB Control Number: 1894–NEW.

Type of Review: A new ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 819.

Total Estimated Number of Annual Burden Hours: 2,927.

Abstract: ED will use the Entry Evidence ICR form and the Evaluation & Exit Evidence ICR form for discretionary grant programs that: (1) Use the standard ED 524–B Grant Performance Report form as approved by OMB. The use of the standard ED 524–B Grant Performance Report promotes the standardization and streamlining of ED discretionary grant performance reporting. These performance reporting components are necessary to standardize information collection about Entry evidence, and Evaluation & Exit evidence use in grant implementation and to ensure a better, more comprehensive understanding of the use of evidence from what is provided in a grant application to the actual implementation of the grant project.

Dated: August 8, 2024.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2024–18038 Filed 8–12–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–962–000.

Applicants: DTM Birdsboro Pipeline, LLC.

Description: § 4(d) Rate Filing: Form of Service Agreement Update—FERC Gas Tariff Original Volume No. 1 to be effective 9/4/2024.

Filed Date: 8/5/24.

Accession Number: 20240805–5162.

Comment Date: 5 p.m. ET 8/19/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission’s Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission’s eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercensearch.asp>) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission’s Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for

rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: August 6, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–17961 Filed 8–12–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator Status

	Docket Nos.
Swift Air Solar, LLC	EG24–173–000
West Warwick Energy Storage 1 LLC.	EG24–174–000
West Warwick Energy Storage 2 LLC.	EG24–175–000
West Warwick Energy Storage 3 LLC.	EG24–176–000
Hornet Solar LLC	EG24–177–000
Gransolar Texas One, LLC	EG24–178–000
BT Jungmann, LLC	EG24–179–000
Desert Quartzite, LLC	EG24–180–000
Aspen Road Solar 1, LLC	EG24–181–000
Egypt Road Solar, LLC	EG24–182–000
Jones Farm Lane Solar, LLC.	EG24–183–000
Imperial Power Plant, LLC	EG24–184–000
Pecos Power Plant, LLC ...	EG24–185–000
Spanish Peaks Solar LLC	EG24–186–000
Bayou Galion Solar Project, LLC.	EG24–187–000
Timbermill Wind, LLC	EG24–188–000
Prosperity Wind, LLC	EG24–189–000
Keydet Solar Center, LLC	EG24–190–000
Empower TXMX, LLC	EG24–191–000
Capon Bridge Solar, LLC ..	EG24–192–000
McFarland Storage C, LLC	EG24–193–000
Ross County Solar, LLC	EG24–194–000
Fayette Solar, LLC	EG24–195–000
Fillmore County Solar Project, LLC.	EG24–196–000
Louise Solar Project, LLC	EG24–197–000

Take notice that during the month of July 2024, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission’s regulations. 18 CFR 366.7(a) (2023).

Dated: August 6, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–17962 Filed 8–12–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. CP24–501–000]

Florida Gas Transmission Company, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on July 23, 2024, Florida Gas Transmission Company, LLC (FGT), 1300 Main St., P.O. Box 4967, Houston, Texas 77210–4967, filed in the above referenced docket a prior notice request pursuant to sections 157.205, 157.208, 157.210, and 157.216 of the Commission's regulations under the Natural Gas Act (NGA), and FGT's blanket certificate issued in Docket No. CP82–553–000, for authorization to perform a miscellaneous rearrangement of facilities on its mainline transmission system to accommodate a joint venture waterway diversion project (Comite River Diversion Canal Project) between the United States Army Corps of Engineers, Louisiana Department of Transportation and Development, Amite River Basin Commission, and East Baton Rouge Parish, Louisiana. The project will provide flood protection in the Baton Rouge Metropolitan Area in East Baton Rouge Parish, Louisiana. It will allow FGT to abandon two segments of its existing 24-inch- and 30-inch-diameter pipelines and relocate and construct two new segments of parallel 24- and 30-inch-diameter pipelines on FGT's mainline system. FGT states that there will be no change to its daily mainline capacity. FGT estimates the cost for the project to be approximately \$26 million, all as more fully set forth in the request, which is on file with the Commission and open to 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://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from

FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at public.reference@ferc.gov.

Any questions concerning this request should be directed to Blair Lichtenwalter, Sr. Director, Certificates, Florida Gas Transmission Company, LLC, 1300 Main St., P.O. Box 4967, Houston, Texas 77210–4967, via phone at (713) 989–2605 or via email at Blair.Lichtenwalter@energytransfer.com.

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 October 4, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,¹ any person² 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,³ and must be submitted by the protest deadline, which is October 4, 2024. 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 Procedure⁴ and the regulations under the NGA⁵ by the intervention deadline for the project, which is October 4, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding 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/resources/guides/how-to-intervene.asp>.

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

¹ 18 CFR 157.205.

² Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

³ 18 CFR 157.205(e).

⁴ 18 CFR 385.214.

⁵ 18 CFR 157.10.

and properly recorded, please submit your comments on or before October 4, 2024. *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 CP24–501–000 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"; or⁶

(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 CP24–501–000.

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other method: Debbie-Anne A. Reese, Acting 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 on the applicant either by mail or email (with a link to the document) at Blair Lichtenwalter, Sr. Director, Certificates, Florida Gas Transmission Company, LLC, 1300 Main St., P.O. Box 4967, Houston, Texas 77210–4967 or via email at Blair.Lichtenwalter@energytransfer.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.

⁶ 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.

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 www.ferc.gov/docs-filing/esubscription.asp.

Dated: August 6, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–17965 Filed 8–12–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–502–000]

Stakeholder Gas Utility, LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on July 24, 2024, Stakeholder Gas Utility, LLC (Stakeholder), 19122 US HWY 281 N, Suite 113, San Antonio, Texas 78258, filed an application under section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Commission's regulations requesting authorization of a temporary limited jurisdiction certificate (Project). The Project will enable Stakeholder to continue to provide transportation service to the RPC Power electric generating facility in Yoakum County, Texas, to accommodate modifications made to its non-jurisdictional gathering system. Certificate authority is required due to a reverse flow scenario where gas delivered to the RPC Power facility would be sourced from an existing interstate pipeline interconnection with El Paso Natural Gas Company rather than through Stakeholder's existing non-jurisdictional gathering facilities, 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://www.ferc.gov>). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at ferconlinesupport@ferc.gov, or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at public.referenceroom@ferc.gov.

Any questions regarding the proposed project should be directed to Jonathan Ellis, Senior Corporate Counsel, Stakeholder Midstream, LLC, 19122 US HWY 281 N, Suite 113, San Antonio, Texas 78258, by phone at (210) 888–5094, or by email at jellis@stakeholderms.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.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on

¹ 18 CFR (Code of Federal Regulations) § 157.9.

the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on August 27, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502-6595 or OPP@ferc.gov.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections, to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be.

Protests

Pursuant to sections 157.10(a)(4)² and 385.211³ of the Commission's regulations under the NGA, any person⁴ may file a protest to the application. Protests must comply with the requirements specified in section 385.2001⁵ of the Commission's regulations. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before August 27, 2024.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP24-502-000 in your submission.

(1) 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;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (www.ferc.gov) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. 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 "Comment on a Filing"; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number CP24-502-000.

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502-8258 or FercOnlineSupport@ferc.gov.

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. *However, 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. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,⁶ 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 Procedure⁷ and the regulations under the NGA⁸ by the intervention deadline for the project, which is August 27, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding 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/resources/guides/how-to/intervene.asp>.

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP24-502-000 in your submission.

(1) You may file your motion to intervene 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 "Intervention." The eFiling feature includes a document-less intervention option; for more information, visit <https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf>; or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP24-502-000.

To file via USPS: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (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 on the applicant either by mail at: Jonathan Ellis, Senior Corporate Counsel, Stakeholder Midstream, LLC, 19122 US HWY 281 N, Suite 113, San Antonio, Texas 78258 or by email at jellis@stakeholderms.com.

² 18 CFR 157.10(a)(4).

³ 18 CFR 385.211.

⁴ Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

⁵ 18 CFR 385.2001.

⁶ 18 CFR 385.102(d).

⁷ 18 CFR 385.214.

⁸ 18 CFR 157.10.

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. Service can be via email with a link to the document.

All timely, unopposed⁹ motions to intervene are automatically granted by operation of Rule 214(c)(1).¹⁰ 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.¹¹ 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.

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 www.ferc.gov/docs-filing/subscription.asp.

Intervention Deadline: 5:00 p.m. Eastern Time on August 27, 2024.

Dated: August 6, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-17964 Filed 8-12-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD24-4-000]

Skagit Public Utility District; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On July 26, 2024, Skagit Public Utility District filed a notice of intent to

construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA). The proposed Mt. Vernon High School Energy Recovery Project would have an installed capacity of 56 kilowatts (kW) and would be located along the applicant's existing water supply system in Mt. Vernon, Skagit County, Washington.

Applicant Contact: Gregg Semler, InPipe Energy, 830 NE Holladay St., Portland, OR 97232, 503-341-0004, gregg@inpipeenergy.com.

FERC Contact: Christopher Chaney, 202-502-6778, christopher.chaney@ferc.gov.

Qualifying Conduit Hydropower Facility Description: The project would consist of: (1) one 56-kW centrifugal pump as turbine generating unit and (2) appurtenant facilities. The proposed project would have an estimated annual generation of approximately 290 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A)	The conduit the facility uses is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar manmade water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i)	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii)	The facility has an installed capacity that does not exceed 40 megawatts	Y
FPA 30(a)(3)(C)(iii)	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: The proposed Mt. Vernon High School Energy Recovery Project will not alter the primary purpose of the conduit, which is for municipal water supply. Therefore, based upon the above criteria, Commission staff preliminarily determines that the operation of the project described above satisfies the requirements for a qualifying conduit hydropower facility, which is not

required to be licensed or exempted from licensing.

Comments and Motions to Intervene: Deadline for filing comments contesting whether the facility meets the qualifying criteria is 30 days from the issuance date of this notice.

Deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the "COMMENTS

⁹ The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

¹⁰ 18 CFR 385.214(c)(1).

¹¹ 18 CFR 385.214(b)(3) and (d).

CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY” or “MOTION TO INTERVENE,” as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of §§ 385.2001 through 385.2005 of the Commission’s regulations.¹ All comments contesting Commission staff’s preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission’s eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at FERCOnlineSupport@ferc.gov, (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may send a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Locations of Notice of Intent: 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 website at <http://www.ferc.gov/docs-filing/elibrary.asp>. Enter the docket number (i.e., CD24-4) in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. Copies of the notice of intent can be obtained directly from the applicant. For assistance, call toll-free 1-866-208-

3676 or email FERCOnlineSupport@ferc.gov. For TTY, call (202) 502-8659.

Dated: August 6, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024-17967 Filed 8-12-24; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC24-108-000.

Applicants: St. Joseph Energy Center, LLC, Wabash Valley Power Association, Inc.

Description: Joint Application for Authorization Under Section 203 of the Federal Power Act of St. Joseph Energy Center, LLC, et al.

Filed Date: 8/5/24.

Accession Number: 20240805-5170.

Comment Date: 5 p.m. ET 8/26/24.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24-250-000.

Applicants: Ponderosa Wind II, LLC.

Description: Ponderosa Wind II, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 8/6/24.

Accession Number: 20240806-5120.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: EG24-251-000.

Applicants: Oliver Wind IV, LLC.

Description: Oliver Wind IV, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 8/6/24.

Accession Number: 20240806-5122.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: EG24-252-000.

Applicants: Steele Flats Wind I, LLC.

Description: Steele Flats Wind I, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 8/6/24.

Accession Number: 20240806-5123.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: EG24-253-000.

Applicants: Minco II Energy Storage, LLC.

Description: Minco II Energy Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 8/6/24.

Accession Number: 20240806-5125.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: EG24-254-000.

Applicants: Breckinridge Energy Storage, LLC.

Description: Breckinridge Energy Storage, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 8/6/24.

Accession Number: 20240806-5126.

Comment Date: 5 p.m. ET 8/27/24.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL24-131-000.

Applicants: Millheim Solar I, LLC v. PJM Interconnection, L.L.C.

Description: Complaint of Millheim Solar I, LLC v. PJM Interconnection, L.L.C.

Filed Date: 8/6/24.

Accession Number: 20240806-5086.

Comment Date: 5 p.m. ET 8/26/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-2126-009.

Applicants: Idaho Power Company.

Description: Notice of Change in Status of Idaho Power Company.

Filed Date: 7/31/24.

Accession Number: 20240731-5287.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER10-2137-032; ER10-2131-032; ER10-2138-033; ER10-2139-033; ER10-2140-032; ER10-2141-032; ER14-2187-026; ER14-2799-023; ER15-103-016; ER18-140-015; ER21-258-009; ER22-2144-007; ER22-2474-004; ER22-2475-004; ER23-2668-004; ER23-2895-002.

Applicants: Hardin Solar Energy II LLC, Richfield Solar Energy LLC, Top Hat Wind Energy Holdings LLC, Top Hat Wind Energy LLC, Invenergy Nelson Expansion LLC, Todd Solar LLC, Lackawanna Energy Center LLC, Invenergy Nelson LLC, Beech Ridge Energy Storage LLC, Grand Ridge Energy Storage LLC, Grand Ridge Energy V LLC, Grand Ridge Energy IV LLC, Grand Ridge Energy III LLC, Grand Ridge Energy II LLC, Grand Ridge Energy LLC, Beech Ridge Energy LLC.

Description: Notice of Change in Status of Beech Ridge Energy LLC, et al.

Filed Date: 7/31/24.

Accession Number: 20240731-5275.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER10-2475-033; ER10-1520-017; ER10-1521-017; ER10-2474-032; ER10-3246-026; ER11-4666-007; ER11-4667-007; ER12-295-006; ER13-1266-051; ER15-2211-048; ER20-2493-012; ER22-1385-011; ER23-674-007; ER23-676-007.

Applicants: BHE Power Watch, LLC, BHE Wind Watch, LLC, BHER Market Operations, LLC., OTCF, LLC, MidAmerican Energy Services, LLC, CalEnergy, LLC, NaturEner Rim Rock

¹ 18 CFR 385.2001 through 385.2005 (2023).

Wind Energy, LLC, NaturEner Glacier Wind Energy 2, LLC, NaturEner Glacier Wind Energy 1, LLC, PacifiCorp, Sierra Pacific Power Company, Occidental Power Marketing, L.P., Occidental Power Services, Inc., Nevada Power Company.

Description: Notice of Non-Material Change in Status of Nevada Power Company, et al.

Filed Date: 7/31/24.

Accession Number: 20240731-5276.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER10-2596-017; ER12-2200-012.

Applicants: Mehoopany Wind Energy LLC, Fowler Ridge II Wind Farm LLC.

Description: Notice of Change in Status of Fowler Ridge II Wind Farm LLC, et al.

Filed Date: 7/31/24.

Accession Number: 20240731-5284.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER10-2818-010; ER10-2806-010; ER10-2847-009; ER18-1984-005.

Applicants: Big Level Wind LLC, TransAlta Centralia Generation LLC, TransAlta Energy Marketing (U.S.) Inc., TransAlta Energy Marketing Corporation.

Description: Notice of Change in Status of TransAlta Energy Marketing Corporation, et al.

Filed Date: 7/31/24.

Accession Number: 20240731-5294.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER10-2984-067.

Applicants: Merrill Lynch Commodities, Inc.

Description: Notice of Change in Status of Merrill Lynch Commodities, Inc.

Filed Date: 7/31/24.

Accession Number: 20240731-5277.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER16-893-004; ER15-1066-004; ER16-892-003; ER16-1371-005; ER17-43-003; ER17-44-003; ER17-239-004; ER17-2318-003; ER18-697-002; ER18-2516-002; ER20-2472-001; ER21-207-001; ER21-2911-001; ER21-2912-001; ER22-123-002.

Applicants: Hecate Energy Highland LLC, Drew Solar-CA, LLC, Drew Solar, LLC, Rancho Seco Solar, LLC, Rancho Seco Solar II LLC, Willow Springs Solar, LLC, Gray Hawk Solar, LLC, Cuyama Solar, LLC, TPE Alta Luna, LLC, Portal Ridge Solar C, LLC, Portal Ridge Solar B, LLC, 63SU 8ME LLC, Red Horse III, LLC, Red Horse Wind 2, LLC, 62SK 8ME LLC.

Description: Triennial Market Power Analysis for Southwest Region of 62SK 8ME LLC, et al.

Filed Date: 7/31/24.

Accession Number: 20240731-5282.

Comment Date: 5 p.m. ET 9/30/24.

Docket Numbers: ER17-2088-007; ER10-2136-024; ER11-4044-035; ER11-4046-034; ER16-2035-007; ER21-2715-008; ER21-2716-008; ER22-2091-008; ER23-1846-005; ER23-2726-003; ER24-1576-003.

Applicants: Maple Flats Solar Energy Center LLC, Walnut Bend Solar LLC, Boomtown Solar Energy LLC, Calhoun Solar Energy LLC, Fairbanks Solar Holdings LLC, Fairbanks Solar Energy Center LLC, Black Oak Wind, LLC, Gratiot County Wind II LLC, Gratiot County Wind LLC, Invenergy Cannon Falls LLC, Apple Blossom Wind, LLC.

Description: Notice of Change in Status of Apple Blossom Wind, LLC, et al.

Filed Date: 7/31/24.

Accession Number: 20240731-5281.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER20-649-007; ER11-47-017; ER12-1540-015; ER12-1541-015; ER12-1542-015; ER12-1544-015; ER14-594-021; ER14-867-007; ER14-868-008; ER17-1930-010; ER17-1931-010; ER17-1932-010; ER19-606-007; ER20-2000-004; ER21-2555-002; ER21-2556-002.

Applicants: South River OnSite Generation, LLC, Martinsville OnSite Generation, LLC, Clyde Onsite Generation, LLC, AEP Generation Resources Inc., Southwestern Electric Power Company, AEP Texas Inc., Public Service Company of Oklahoma, AEP Retail Energy Partners, AEP Energy, Inc., Ohio Power Company, Wheeling Power Company, Kingsport Power Company, Kentucky Power Company, Indiana Michigan Power Company, Indiana Michigan Power Company, Appalachian Power Company, Ohio Power Company, Kingsport Power Company, Columbus Southern Power Company, Kentucky Power Company, Wheeling Power Company, AEP Energy Partners, Inc.

Description: Notice of Change in Status of AEP Energy Partners, Inc., et al.

Filed Date: 8/2/24.

Accession Number: 20240802-5173.

Comment Date: 5 p.m. ET 8/23/24.

Docket Numbers: ER20-681-010.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Notice of Change in Status of Tri-State Generation and Transmission Association, Inc.

Filed Date: 7/31/24.

Accession Number: 20240731-5291.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER21-1225-006; ER22-867-003.

Applicants: Long Ridge Retail Electric Supplier LLC, Long Ridge Energy Generation LLC.

Description: Notice of Change in Status of Long Ridge Energy Generation LLC, et al.

Filed Date: 7/31/24.

Accession Number: 20240731-5288.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER22-123-003.

Applicants: Hecate Energy Highland LLC.

Description: Notice of Change in Status of Hecate Energy Highland LLC.

Filed Date: 7/31/24.

Accession Number: 20240731-5283.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER22-871-003;

ER22-2925-003; ER22-2926-003.

Applicants: Jicarilla Storage 1 LLC, Jicarilla Solar 1 LLC, Jicarilla Solar 2 LLC.

Description: Notice of Change in Status of Jicarilla Solar 2 LLC, et al.

Filed Date: 7/31/24.

Accession Number: 20240731-5293.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER23-568-005.

Applicants: Big Cypress Solar, LLC.

Description: Notice of Change in Status of Big Cypress Solar, LLC.

Filed Date: 7/31/24.

Accession Number: 20240731-5280.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER23-2066-001; ER10-2529-008; ER10-2534-009; ER22-1065-004; ER22-2622-003; ER23-1595-003.

Applicants: LRE Energy Services, LLC, Chaparral Springs, LLC, Rabbitbrush Solar, LLC, Kumeyaay Wind LLC, Buena Vista Energy, LLC, Antelope Valley BESS, LLC.

Description: Notice of Non-Material Change in Status of Antelope Valley BESS, LLC, et al.

Filed Date: 7/31/24.

Accession Number: 20240731-5292.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER23-2448-003.

Applicants: Tunica Windpower LLC.

Description: Notice of Change in Status of Tunica Windpower LLC.

Filed Date: 7/31/24.

Accession Number: 20240731-5286.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER24-116-002.

Applicants: Rhythm Ops, LLC.

Description: Notice of Change in Status of Rhythm Ops, LLC.

Filed Date: 7/31/24.

Accession Number: 20240731-5285.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER24-750-002; ER24-1980-001; ER24-1981-001; ER24-1983-001.

Applicants: West Warwick Energy Storage 3 LLC, West Warwick Energy Storage 2 LLC, West Warwick Energy Storage 1 LLC, Town Hill Energy Storage 1 LLC.

Description: Notice of Non-Material Change in Status of Town Hill Energy Storage 1 LLC, et al.

Filed Date: 7/31/24.

Accession Number: 20240731–5295.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER24–1382–001; ER23–2376–001.

Applicants: Horus West Virginia I, LLC, Horus Louisiana 1, LLC.

Description: Notice of Change in Status of Horus Louisiana 1, LLC.

Filed Date: 7/31/24.

Accession Number: 20240731–5289.

Comment Date: 5 p.m. ET 8/21/24.

Docket Numbers: ER24–1743–002.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment to Revisions in ER24–1743 to be effective 6/1/2023.

Filed Date: 8/6/24.

Accession Number: 20240806–5121.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: ER24–2257–001.

Applicants: Lockhart CL ESS I, LLC.

Description: Tariff Amendment: Supplement to Market-Based Rate Application and Request for Expedited Action to be effective 8/12/2024.

Filed Date: 8/6/24.

Accession Number: 20240806–5115.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: ER24–2258–001.

Applicants: Lockhart CL ESS II, LLC.

Description: Tariff Amendment: Supplement to Market-Based Rate Application and Request for Expedited Action to be effective 8/12/2024.

Filed Date: 8/6/24.

Accession Number: 20240806–5116.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: ER24–2705–000.

Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: Unexecuted Agua Amarga Wind LGIA TO SA 484 to be effective 8/6/2024.

Filed Date: 8/5/24.

Accession Number: 20240805–5152.

Comment Date: 5 p.m. ET 8/26/24.

Docket Numbers: ER24–2707–000.

Applicants: Mid-Atlantic Interstate Transmission, LLC, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Mid-Atlantic Interstate Transmission, LLC submits tariff filing per 35.13(a)(2)(iii); MAIT submits amended IA, SA No. 4577 re: FirstEnergy Reorganization to be effective 10/7/2024.

Filed Date: 8/6/24.

Accession Number: 20240806–5026.

Comment Date: 5 p.m. ET 8/27/24.

Docket Numbers: ER24–2708–000.

Applicants: Public Service Company of Colorado.

Description: § 205(d) Rate Filing: PSC–CCR–AP–2023–2–APFSA–822–0.0.0 to be effective 10/6/2024.

Filed Date: 8/6/24.

Accession Number: 20240806–5050.

Comment Date: 5 p.m. ET 8/27/24.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or OPP@ferc.gov.

Dated: August 6, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–17963 Filed 8–12–24; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2024–0307; FRL–12111–01–OLEM]

Hazardous Waste Electronic Manifest System (“e-Manifest”) Advisory Board; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA) will convene the Hazardous Waste Electronic System (“e-

Manifest”) Advisory Board for a three (3) day virtual public meeting. The purpose of the meeting is for EPA to seek the Board's consultation and recommendations regarding the e-Manifest system (Meeting Theme: “*Meeting the Needs of the User Community: e-Manifest Program Priorities and User Fees for FY 2026 and 2027*”).

DATES: The meeting will be held on September 17–19, 2024, from approximately 10:00 a.m. to 5:00 p.m. EDT on each day.

ADDRESSES: This public meeting will be conducted virtually. Registration is required to attend and/or participate (as public commenter) in this public meeting. Please refer to the e-Manifest Advisory Board website <https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board> for information on how to register either as a public audience attendee or as an oral public commenter.

Comments. To make oral comments during the public meeting and be included on the meeting agenda, please register by noon on September 10, 2024. Registration instructions will be posted on the e-Manifest Advisory Board website at <https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board>. Any written comments submitted for the e-Manifest Advisory Board meeting on or before September 10, 2024, should be submitted in the public docket under Docket number EPA–HQ–OLEM–2024–0307 at <http://www.regulations.gov>. Written comments submitted to the public docket on or before September 10, 2024, will be provided to the e-Manifest Advisory Board for their consideration before the meeting. Anyone who wishes to submit comments after September 10, 2024, must send their written public comments or their oral comment requests directly to the Designated Federal Officer (DFO) listed under **FOR FURTHER INFORMATION CONTACT**. For additional instructions, see section I.B. under **SUPPLEMENTARY INFORMATION**.

Special accommodations. For information on access or services for individuals with disabilities, and to request accommodation of a disability, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** at least ten (10) days prior to the meeting to give the EPA as much time as possible to process your request.

FOR FURTHER INFORMATION CONTACT: Fred Jenkins, Designated Federal Officer (DFO), U.S. Environmental Protection Agency, Office of Resource

Conservation and Recovery, email: jenkins.fred@epa.gov; phone: 202–566–0344.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public. The full agenda and meeting materials will be available in the docket for the meeting and at the e-Manifest Advisory Board website at <https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board>. This public meeting will be conducted virtually. Registration is required to attend and/or participate in this public meeting. Registration instructions will be posted on the e-Manifest Advisory Board website at <https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board>. In the event the Agency needs to make subsequent changes to this meeting, the Agency will post future notices to its e-Manifest Advisory Board meeting website (<https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board>). The Agency strongly encourages the public to refer to the e-Manifest website for the latest meeting information, as sudden changes may be necessary.

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may be of particular interest to persons who are or may be subject to the Hazardous Waste Electronic Manifest (e-Manifest) Establishment Act.

B. How may I participate in this meeting?

You may participate in this meeting by providing public comments via the instructions in this document. To ensure proper receipt of your public comments by the EPA, it is imperative that you submit your comments, identified by docket ID number EPA–HQ–OLEM–2024–0307, at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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 (e.g., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

1. *Written comments.* The Agency encourages written comments be submitted electronically via <http://www.regulations.gov>, into docket ID number EPA–HQ–OLEM–2024–0307 on or before September 10, 2024, to provide the e-Manifest Advisory Board the time necessary to consider and review the written comments. Written comments are accepted until the date of the meeting, but anyone submitting written comments after September 10, 2024, should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

2. *Oral comments.* The Agency encourages each individual or group wishing to make brief oral comments to the e-Manifest Advisory Board to please register as an oral commenter for the meeting at the e-Manifest Advisory Board website, <https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board>, by noon on September 10, 2024, to be included on the meeting agenda. Anyone submitting oral public comments request after September 10, 2024, should also contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**. Requests to present oral comments will be accepted until the date of the meeting. Registration is required to attend and/or participate as an oral public commenter in this public meeting. Please refer to the e-Manifest Advisory Board website at <https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board> for information on how to register either as an oral public commenter or public audience attendee. To the extent that time permits, the Chair of the e-Manifest Advisory Board may permit the presentation of oral comments at the meeting by interested persons who have not previously requested time. The request should identify the name of the individual making the presentation, the organization (if any) that the individual represents, and any requirements for audiovisual presentation support. Oral comments before the e-Manifest Advisory Board are limited to approximately five (5) minutes unless prior arrangements have been made. In addition, each speaker should provide a copy of their comments and

presentation to the DFO so that they can be distributed to the e-Manifest Advisory Board at the meeting.

C. Purpose of the e-Manifest Advisory Board

The Hazardous Waste Electronic Manifest System Advisory Board is established in accordance with the provisions of the Hazardous Waste Electronic Manifest Establishment Act (e-Manifest Act), 42 U.S.C. 6939g, and the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2. The e-Manifest Advisory Board is in the public interest and supports the EPA in performing its duties and responsibilities. The Advisory Board shall meet annually to discuss, evaluate the effectiveness of, and provide recommendations about the system to the EPA Administrator.

The sole duty of the Advisory Board is to provide advice and recommendations to the EPA Administrator. As required by the e-Manifest Act, the e-Manifest Advisory Board is composed of nine (9) members. One (1) member is the EPA Administrator (or a designee), who serves as Chairperson of the Advisory Board. The rest of the committee is composed of:

- At least two (2) members who have expertise in information technology;
- At least three (3) members who have experience in using or represent users of the manifest system to track the transportation of hazardous waste under the e-Manifest Act;
- At least three (3) members who are State representatives responsible for processing manifests.

All members of the e-Manifest Advisory Board, except for the EPA Administrator, are appointed as Expert members or Representative members.

D. Public Meeting

e-Manifest provides those persons required to use a Resource Conservation and Recovery Act (RCRA) manifest under either Federal or State law the option of using electronic manifests to track shipments of hazardous waste and to meet certain RCRA requirements. By enabling the transition from a paper-intensive process to an electronic system, EPA estimates e-Manifest will ultimately save State and industry users more than \$50 million annually, once electronic manifests are widely adopted.

Under the e-Manifest Act of 2012, EPA must collect user fees to offset the costs of developing and operating the e-Manifest system. In January 2018, EPA published regulations establishing the methodology which the Agency uses to set and collect user fees for the e-Manifest system. Under the final rule,

EPA charges a fee to receiving facilities for each manifest submitted to EPA's e-Manifest system. User fees are tailored to the method used to submit manifests to EPA, *e.g.*, different fees apply for electronic manifests than for paper manifests uploaded to the system. In addition, EPA is required to publish revised user fee schedules at two-year intervals.

On February 21, 2024, EPA published a notice in the **Federal Register** (89 FR 13080) that invited the public to provide input for potential charge questions which the Agency could consider when consulting the e-Manifest Advisory Board regarding the operations of EPA's e-Manifest system. EPA is considering the public input it received as part of the presentation and/or charges to the Advisory Board for this meeting, as well as future meetings.

EPA will convene its next public meeting of the e-Manifest System Advisory Board September 17–19, 2024. The purpose of this meeting is for the Board to advise the Agency on its proposed program priorities and user fees for the FY2026/FY2027 cycle.

E. e-Manifest Advisory Board Documents and Meeting Minutes

The meeting background paper, related supporting materials, charge/questions to the Advisory Board, the Advisory Board membership roster (*i.e.*, members attending this meeting), and the meeting agenda will be available by approximately mid-August of 2024. In addition, the Agency may provide additional background documents as the materials become available. You may obtain electronic copies of these documents, and certain other related documents that might be available at <http://www.regulations.gov> via the docket ID number EPA–HQ–OLEM–2024–0307 and at the e-Manifest Advisory Board website at: <https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board>.

The e-Manifest Advisory Board will prepare meeting minutes summarizing its recommendations to the Agency approximately ninety (90) days after the meeting. The meeting minutes will be posted on the e-Manifest Advisory Board website, or they may be obtained from the public docket at <http://www.regulations.gov> via the docket ID number EPA–HQ–OLEM–2024–0307.

Dated August 4, 2024.

Carolyn Hoskinson,
Director, Office of Resource Conservation and Recovery.

[FR Doc. 2024–17936 Filed 8–12–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1217; FR ID 236585]

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 October 11, 2024. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email PRA@fcc.gov and to nicole.ongele@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1217.

Title: Ensuring Continuity of 911 Communications Report and Order, PS Docket No. 14–174, FCC 15–98.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or for-profit.

Number of Respondents and

Responses: 615 respondents; 615 responses.

Estimated Time per Response: 2.7 hours (on average; varies by respondent).

Frequency of Response: Annual reporting requirement and third party disclosure reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 4(i), and 251(e)(3) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 251(e)(3); section 101 of the NET 911 Improvement Act of 2008, Public Law 110–283, 47 U.S.C. 615a-1; and section 106 of the Twenty-First Century Communications and Video Accessibility Act of 2010, Public Law 111–260, 47 U.S.C. 615c.

Total Annual Burden: 3,150 hours.

Total Annual Cost: No Cost.

Needs and Uses: Section 9.20 of the Commission's rules places limited backup power obligations on providers of facilities-based fixed, residential voice services that are not line-powered to ensure that such service providers meet their obligation to provide access to 911 service during a power outage, and to provide clarity for the role of consumers and their communities should they elect not to purchase backup power.

Specifically, we require providers to disclose to subscribers the following information: (1) availability of backup power sources; (2) service limitations with and without backup power during a power outage; (3) purchase and replacement options; (4) expected backup power duration; (5) proper usage and storage conditions for the backup power source; (6) subscriber backup power self-testing and monitoring instructions; and (7) backup power warranty details, if any. Each element of this information must be given to subscribers both at the point of sale and annually thereafter, as described in the rule.

The disclosure requirements are intended to equip subscribers with necessary information to purchase and maintain a source of backup power to enhance their ability to maintain access to reliable 911 service from their homes.

We permit providers to convey both the initial and annual disclosures and information described above by any

means reasonably calculated to reach the individual subscriber. For example, a provider may meet this obligation through a combination of disclosures via email, an online billing statement, or other digital or electronic means for subscribers that communicate with the provider through these means. For a subscriber that does not communicate with the provider through email and/or online billing statements—such as someone who ordered service on the phone or in a physical store and receives a paper bill by regular mail—email would not be a means reasonably calculated to reach that subscriber.

Federal Communications Commission.

Katura Jackson,

Federal Register Liaison Officer.

[FR Doc. 2024–17931 Filed 8–12–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2024–N–11]

Proposed Collection; Comment Request

AGENCY: Federal Housing Finance Agency.

ACTION: Federal Home Loan Bank Directors—30-day notice of submission of information collection for approval from Office of Management and Budget.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Housing Finance Agency (FHFA or the Agency) is seeking public comments concerning an information collection known as “Federal Home Loan Bank Directors,” which has been assigned control number 2590–0006 by the Office of Management and Budget (OMB). FHFA intends to submit the information collection to OMB for review and approval of a three-year reinstatement and extension of the control number, which expired July 31, 2024.

DATES: Interested persons may submit comments on or before September 12, 2024.

ADDRESSES: Submit comments to the Office of Information and Regulatory Affairs of the Office of Management and Budget, Attention: Desk Officer for the Federal Housing Finance Agency, Washington, DC 20503, Fax: (202) 395–3047, Email: OIRA_submission@omb.eop.gov. Please also submit comments to FHFA, identified by “Proposed Collection; Comment Request: Federal Home Loan Bank

Directors, (No. 2024–N–11)” by any of the following methods:

- *Agency Website:* www.fhfa.gov/open-for-comment-or-input.
- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. If you submit your comment to the *Federal eRulemaking Portal*, please also send it by email to FHFA at RegComments@fhfa.gov to ensure timely receipt by the agency.
- *Mail/Hand Delivery:* Federal Housing Finance Agency, Fourth Floor, 400 Seventh Street SW, Washington, DC 20219, ATTENTION: Proposed Collection; Comment Request: “Federal Home Loan Bank Directors, (No. 2024–N–11).” Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.

FHFA will post all public comments on the FHFA public website at <http://www.fhfa.gov>, except as described below. Commenters should submit only information that the commenter wishes to make available publicly. FHFA may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any comment that contains content that is obscene, vulgar, profane, or threatens harm. All comments, including those that are redacted or not posted, will be retained in their original form in FHFA’s internal file and considered as required by all applicable laws. Commenters that would like FHFA to consider any portion of their comment exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA’s Policy on Communications with Outside Parties in Connection with FHFA Rulemakings, see https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf. FHFA cannot guarantee that such data or information, or the identity of the commenter, will remain confidential if disclosure is sought pursuant to an applicable statute or regulation. See 12 CFR 1202.8, 12 CFR 1214.2, and the FHFA FOIA reference guide at <https://www.fhfa.gov/about/foia-reference-guide> for additional information.

FOR FURTHER INFORMATION CONTACT:

Kenya Bryant, Financial Analyst, Kenya.Bryant@fhfa.gov, (202) 649–3938; or Angela Supervielle, Senior Counsel, Angela.Supervielle@fhfa.gov, (202) 649–3973 (these are not toll-free numbers); Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

A. Need for and Use of the Information Collection

Section 7 of the Federal Home Loan Bank Act (Bank Act) vests the management of each Federal Home Loan Bank (Bank) in its board of directors.¹ As required by section 7, each Bank’s board comprises two types of directors: (1) member directors, who are drawn from the officers and directors of member institutions located in the Bank’s district and who are elected to represent members in a particular state in that district; and (2) independent directors, who are unaffiliated with any of the Bank’s member institutions, but who reside in the Bank’s district and are elected on an at-large basis.² Both types of directors serve four-year terms, which are staggered so that approximately one-quarter of a Bank’s total directorships are up for election every year.³ Section 7 and FHFA’s implementing regulation, codified at 12 CFR part 1261, establish the eligibility requirements for both types of Bank directors and the professional qualifications for independent directors, and set forth the procedures for their election.

Part 1261 requires that each Bank administer its own annual director election process. As part of this process, a Bank must require each nominee for both types of directorship, including any incumbent that may be a candidate for re-election, to complete and return to the Bank a form that solicits information about the candidate’s statutory eligibility to serve and, in the case of independent director candidates, about his or her professional qualifications for the directorship being sought.⁴ Specifically, member director candidates are required to complete the *Federal Home Loan Bank Member Director Eligibility Certification Form (Member Director Eligibility Certification Form)*, while independent director candidates must complete the *Federal Home Loan Bank Independent*

¹ See 12 U.S.C. 1427(a)(1).

² See 12 U.S.C. 1427(a)(4), (b), and (d).

³ See 12 U.S.C. 1427(d).

⁴ See 12 CFR 1261.7(c) and (f); 12 CFR 1261.14(b).

Director Application Form (Independent Director Application Form). Each Bank must also require all of its incumbent directors to certify annually that they continue to meet all eligibility requirements.⁵ Member directors do this by completing the *Member Director Eligibility Certification Form* again every year, while independent directors complete the abbreviated *Federal Home Loan Bank Independent Director Annual Certification Form (Independent Director Annual Certification Form)* to certify their ongoing eligibility.

The Banks use the information collection contained in the *Independent Director Application Form* and part 1261 to determine whether individuals who wish to stand for election or re-election as independent directors satisfy the statutory eligibility requirements and possess the professional qualifications required under the statute and regulations. Only individuals meeting those requirements and qualifications may serve as an independent director.⁶ On an annual basis, the Banks use the information collection contained in the *Independent Director Annual Certification Form* and part 1261 to determine whether their incumbent independent directors continue to meet the statutory eligibility requirements. The Banks use the information collection contained in the *Member Director Eligibility Certification Form* and part 1261 to determine whether individuals who wish to stand for election or re-election as member directors satisfy the statutory eligibility requirements. Only individuals meeting these requirements may serve as a member director.⁷ On an annual basis, the Banks also use the information collection contained in the *Member*

Director Eligibility Certification Form and part 1261 to determine whether their incumbent member directors continue to meet the statutory eligibility requirements.

The OMB control number for this information collection is 2590-0006. The clearance for the information collection expired July 31, 2024. The likely respondents are individuals who are prospective and incumbent Bank directors.

B. Burden Estimate

FHFA estimates the total annual hour burden imposed upon respondents by the three Bank director forms comprising this information collection to be 269 hours (39 hours + 200 hours + 30 hours = 269 hours, as detailed below).

The Agency estimates the total annual hour burden on all member director candidates and incumbent member directors associated with review and completion of the *Member Director Eligibility Certification Form* to be 39 hours. This includes a total annual average of 72 member director nominees (24 open seats per year with three nominees for each) completing the form as an application, with 1 response per nominee taking an average of 15 minutes (.25 hours) (72 respondents × .25 hours = 18 hours). It also includes a total annual average of 84 incumbent member directors not up for election completing the form as an annual certification, with 1 response per individual taking an average of 15 minutes (.25 hours) (84 individuals × .25 hours = 21 hours).

The Agency estimates the total annual hour burden on all independent director candidates associated with review and completion of the *Independent Director Application Form* to be 200 hours. This includes a total annual average of 100

applications for independent director positions with 1 response per individual taking an average of 2.0 hours (100 applications × 2.0 hours = 200 hours).

The Agency estimates the total annual hour burden on all incumbent independent directors associated with review and completion of the *Independent Director Annual Certification Form* to be 30 hours. This includes a total annual average of 60 incumbent independent directors not up for election, with 1 response per individual taking an average of 30 minutes (.5 hours) (60 individuals × .5 hours = 30 hours).

C. Comments Request

In accordance with the requirements of 5 CFR 1320.8(d), FHFA published an initial notice and request for public comments regarding this information collection in the **Federal Register** on June 7, 2024.⁸ The 60-day comment period closed on August 6, 2024. FHFA did not receive any comments.

FHFA requests written comments on the following: (1) Whether the collection of information is necessary for the proper performance of FHFA functions, including whether the information has practical utility; (2) the accuracy of FHFA's estimates of the burdens of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Shawn Bucholtz,

Chief Data Officer, Federal Housing Finance Agency.

BILLING CODE 8070-01-P

⁸ See 89 FR 48612 (June 7, 2024).

⁵ See 12 CFR 1261.12.

⁶ See 12 U.S.C. 1427(a)(3).

⁷ See 12 U.S.C. 1427(a)(3) and (b)(1).



Locking Fillable PDF Field to Read Only – Form 129 Quick Reference Guide

FHLBanks are requested to select their Bank from the drop-down menu and fill in the applicant submission date on **page 1**. Once these two fields are completed, save the form.

In the **Tools** tab, in the **Forms & Signatures** section select **Prepare Form** and the **Prepare Form** tool bar will be visible on the Form.

The fillable fields completed previously are now ready to be edited for read only.

Double click in the field and the **Dropdown Properties** pop-up box will appear.

Select the **General** tab, in the **Dropdown Properties** pop-up box. Under the **Common Properties** section, check **Read Only**. Once the **Read Only** box is checked select the **Close** button to close the **Dropdown Properties** pop-up box. Complete these steps for both fillable fields on **page 1**.

In order to prepare the form for applicants to complete. Select **Prepare Form** drop-down menu and select **Back to Document**. Then save the form.

Then save the form. The **Save as PDF** dialogue box opens. Confirm that the folder location and file name are the same as the original PDF location and name. Click **Save**, and **Yes to replace**.



Locking Fillable PDF Field to Read Only – Form 130 Quick Reference Guide

FHLBanks are requested to select their Bank from the drop-down menu and fill in the applicant submission date on page 1. Once these two fields are completed, save the form.

In the *Tools* tab, in the *Forms & Signatures* section select **Prepare Form** and the **Prepare Form** tool bar will be visible on the Form.

The fillable fields completed previously are now ready to be edited for read only.

Double click in the field and the *Dropdown Properties* pop-up box will appear.

Select the *General* tab, in the *Dropdown Properties* pop-up box. Under the *Common Properties* section, check **Read Only**. Once the **Read Only** box is checked select the **Close** button to close the *Dropdown Properties* pop-up box. Complete these steps for both fillable fields on page 1.

In order to prepare the form for applicants to complete. Select **Prepare Form** drop-down menu and select **Back to Document**. Then save the form.

The **Save as PDF** dialogue box opens. Confirm that the folder location and file name are the same as the original PDF location and name. Click **Save**, and **Yes** to replace.



Locking Fillable PDF Field to Read Only – Form 131 Quick Reference Guide

FHLBanks are requested to select their Bank from the drop-down menu and fill in the applicant submission date on **page 1**. Once these two fields are completed, save the form.

In the **Tools** tab, in the **Forms & Signatures** section select **Prepare Form** and the **Prepare Form** tool bar will be visible on the Form.

The fillable fields completed previously are now ready to be edited for read only.

Double click in the field and the **Dropdown Properties** pop-up box will appear.

Select the **General** tab, in the **Dropdown Properties** pop-up box. Under the **Common Properties** section, check **Read Only**. Once the **Read Only** box is checked select the **Close** button to close the **Dropdown Properties** pop-up box. Complete these steps for both fillable fields on **page 1**.

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The **Save as PDF** dialogue box opens. Confirm that the folder location and file name are the same as the original PDF location and name. Click **Save**, and **Yes** to replace.



FEDERAL HOUSING FINANCE AGENCY
Federal Home Loan Bank Independent Director
 Application Form

FHFA Form #129
 (03/2023)

INSTRUCTIONS

Clear Form

You either have expressed interest in, or have been recommended for, nomination to stand for election as an independent director of the Federal Home Loan Bank of (Bank). If you would like the Bank's board of directors to consider you as a possible nominee for an independent directorship, you must complete and execute this Federal Home Loan Bank Independent Director Application Form and submit it to the Bank on or before . If you do not submit a completed and executed Form by that date, you will be deemed to have declined to be considered for nomination.

By law, the Bank's board of directors may nominate you for an independent directorship only if it has verified that you meet the legal eligibility requirements applying to independent directors and possess the professional qualifications that are specified by law for the type of independent directorship for which you are being considered. Your responses to the questions on this Form will assist the Bank in verifying that you are legally eligible, and possess the required professional qualifications, to serve as an independent director of the Bank if elected.

You are eligible to serve as an independent director of the Bank only if you meet all of the following requirements:

- You are a citizen of the United States.
- You are a *bona fide* resident of the Bank District, as determined by meeting either one of the following two sets of criteria:
 - Your principal residence is located in the Bank District; or
 - You both:
 - Own or lease in your own name a residence in the Bank District; and
 - Are employed in a voting state in the Bank District.
- Neither you nor your spouse are:
 - An officer of any Federal Home Loan Bank; or
 - An officer, employee, or director of any member of, or recipient of advances from, the Bank. For purposes of this prohibition:
 - "Advances" includes any form of lending, regardless of whether it is denominated as an "advance"; and
 - "Member" and "recipient of advances" include the institution itself and the institution's holding company, except where the assets of all members or all recipients of advances constitute less than 35 percent of the assets of the holding company, on a consolidated basis.

These eligibility requirements may be found in sections 7(d) and (b) of the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. 1427(a) and (b), and in Federal Housing Finance Agency regulations at 12 CFR 1261.5(c) and 1261.10.

In addition, you must demonstrate that you possess certain professional qualifications, which differ depending on whether you are seeking nomination for a "regular" or a "public interest" independent directorship. By law, the Bank must designate at least two of the independent directorships on its board as "public interest" directorships. These independent directorships may be filled only by individuals having, at the time of nomination, more than four (4) years of experience representing consumer or community interests in banking services, credit needs, housing, or consumer financial protections.

Regular independent directorships, that is, those that are not public interest directorships, must be filled by individuals having, at the time of nomination, experience in or knowledge of one or more of the following areas: auditing and accounting, derivatives, financial management, organizational management, project development, risk management practices, and the law. Such knowledge or experience must be commensurate with that needed to oversee a financial institution with a size and complexity comparable to that of the Bank. The requirements regarding professional qualifications may be found in section 7(a)(3)(B) of the Bank Act, 12 U.S.C. 1427(a)(3)(B), and in FHFA's regulations at 12 CFR 1261.7(e).

Please answer all applicable questions in full and do not answer any question by referring to another document, except where expressly permitted to do so. You may continue your answers on additional pages, if necessary, each of which shall be attached to, and deemed a part of, this Form.

PERSONAL INFORMATION

Please provide your personal information as indicated in Questions 1 - 4

1. Full Name:

2. Other Names Used or Known by:

3. Contact Information:

Phone Number:

Home:

Office:

Cell:

E-mail Address:

Mailing Address:

Number/Street (or PO Box)

City

State

ZIP Code

4. Current Employment, if applicable:

Current Employer:

Your Title:

Your Employment Address:

Number/Street

City

State

ZIP Code

ELIGIBILITY REQUIREMENTS															
Please answer Question 5 – 8, regarding your eligibility to serve as an independent director, in full.															
<i>Citizenship and Residency</i>															
You must meet the legal requirements as to U.S. citizenship and Bank District residency to be eligible for nomination for an independent directorship.															
5. Citizenship. Are you a citizen of the United States? ☐ Yes ☐ No 6. Residency. A. Please provide the street address of your principal residence. Address: <table style="width: 100%; margin-top: 10px;"><tr><td style="width: 40%;">Number/Street</td><td style="width: 20%;">City</td><td style="width: 20%;">State</td><td style="width: 20%;">ZIP Code</td></tr></table> <i>If the residence entered in response to Question 6A is located within the Bank District, you meet the residency requirement and may skip to Question 7.</i> <i>If your principal residence is not located within the Bank District, you may still meet the residency requirement if you own or lease another residence located within the Bank District and are employed within the Bank District; in this case, please continue with Question 6B. If you do not own or lease any residence within the Bank District, you are ineligible to be nominated for an independent directorship.</i> B. If your principal residence is not located within the Bank District, but you own or lease another residence within the Bank District, please provide the address of that residence. Address: <table style="width: 100%; margin-top: 10px;"><tr><td style="width: 40%;">Number/Street</td><td style="width: 20%;">City</td><td style="width: 20%;">State</td><td style="width: 20%;">ZIP Code</td></tr></table> C. Are you employed within the Bank District? ☐ Yes ☐ No D. If you answered Yes to Question 6C, please identify your in-District employer: ☐ Check if your in-District employment information is the same as that entered in response to Question 4. ☐ Check if your in-District employment information is different from that entered in response to Question 4, then provide the following information: Name of Your In-District Employer: Your Title: Your Employment Address: <table style="width: 100%; margin-top: 10px;"><tr><td style="width: 40%;">Number/Street</td><td style="width: 20%;">City</td><td style="width: 20%;">State</td><td style="width: 20%;">ZIP Code</td></tr></table>				Number/Street	City	State	ZIP Code	Number/Street	City	State	ZIP Code	Number/Street	City	State	ZIP Code
Number/Street	City	State	ZIP Code												
Number/Street	City	State	ZIP Code												
Number/Street	City	State	ZIP Code												

Independence

The information you provide below will enable the Bank to determine whether you meet the independence requirements. You may be nominated if you do not currently meet the independence requirements, but you must agree as part of the certification at the end of this Form that you and your spouse will relinquish any positions that the Bank determines to be prohibited under those requirements. If elected, you may not be seated as an independent director so long as you or your spouse hold any such prohibited positions and, once seated, would become ineligible to continue to serve as an independent director if you or your spouse were to take any such prohibited positions.

7. Employment by a Federal Home Loan Bank.

A. Are you or your spouse an officer or employee of any Federal Home Loan Bank? ☐ Yes ☐ No

B. If you answered Yes to Question 7A, please provide the following information for each such position held by you or your spouse:

Name of the Person Holding the Position:

Federal Home Loan Bank of:

Title:

Date Position Began:

8. Employment by a Bank Member, Housing Associate, or Holding Company.

A. Are you or your spouse an officer, director, or employee of a member of the Bank, an entity certified as a housing associate of the Bank, or a holding company that controls one or more members or housing associates of the Bank? ☐ Yes ☐ No

B. If you answered Yes to Question 8A, please provide the following information for each such position held by you or your spouse:

Name of the Person Holding the Position:

Name of the Employer:

Check the appropriate response below to indicate whether the employer is:

- ☐ a member
☐ a holding company of a member
☐ a housing associate
☐ a holding company of a housing associate

Title:

Date Position Began:

If the employer is a holding company:

- Indicate the total assets of the holding company;
- Indicate the total assets of each member or housing associate of the Bank controlled by the holding company; and
- Provide documentation to support those amounts.

ACADEMIC AND EMPLOYMENT HISTORY

Please answer in full Questions 9 - 11, regarding your academic and employment background. If you wish, you may answer any or all of these questions by attaching a resume or CV, so long as you provide all of the information requested. Any such attachments shall be deemed a part of this Form.

☐ Check if you have attached a resume or CV in response to Questions 9 - 11.

9. **Academic Degrees.** Please list any college or advanced academic degrees that you have been awarded, specifying for each: the type of degree, the name and location of the academic institution that awarded your degree, and the date awarded.

10. Employment History. Please list, from most to least recent, the positions you have held during your professional career, specifying for each: the name and location of your employer, your position, and the date range (including month and year) during which you served in that position. Please explain any major gaps in your employment chronology.

11. Other Relevant Experience and Achievements. Please list any other significant positions you have held, or currently hold, (such as other directorships or volunteer positions) and any professional certifications that you believe are relevant to your qualifications to serve as an independent director of the Bank, specifying for each: the name and location of the organization with which you served, your position, and the date range (including month and year) during which you served in that position; for each certification, list the certification name, the certifying entity, and the date of your certification.

PROFESSIONAL QUALIFICATIONS

Please indicate in response to Question 12 whether you are seeking nomination for a public interest independent directorship or a regular independent directorship and then complete the appropriate questions regarding your qualifications for that type of independent directorship. If you wish to be considered for both types of independent directorships, or are unsure, please check both options. If you wish to be considered for a public interest independent directorship, you must answer Question 13 in full. If you wish to be considered for a regular independent directorship, you must answer Questions 14 – 15 in full. If you wish to be considered for only one type of independent directorship, you are not required to answer the question or questions pertaining to the other type of independent directorship, although you may choose to do so if you wish to highlight relevant knowledge or experience in the areas addressed in those questions.

12. Type of Independent Directorship Being Sought. Please check one or both of the boxes below to indicate the type of independent directorship you are seeking.

- ☐ Check if you are seeking a public interest independent directorship.
- ☐ Check if you are seeking a regular independent directorship.

Public Interest Independent Directorship

By statute, a nominee for a public interest independent directorship must have "more than 4 years of experience in representing consumer or community interests on banking services, credit needs, housing, or consumer financial protections." Qualifying experience in one of the four enumerated areas may have been acquired in professional, public service, or volunteer positions, so long as the work done was substantial in terms of time commitment and responsibility. As indicated by the statute's use of the word "representing," the experience must have involved advocating for, or otherwise acting primarily for the direct benefit of, consumer or community interests in one of the four enumerated areas. Further, the experience must accrue from activities personally undertaken by the individual seeking nomination as a public interest independent director, as opposed to being attributed based solely on the activities of an organization with which the person was associated. Please reach out to the Bank if you have questions as to whether your experience meets the statutory requirements to qualify for service as a public interest independent director.

13. Representation of Consumer and Community Interests. Please explain in detail how you have represented consumer or community interests in banking services, credit needs, housing, or consumer financial protections for more than four years. At a minimum:

- Identify the positions through which you obtained your qualifying experience and specify the dates during which you served in those positions.
- Specify whether those positions involved banking services, credit needs, housing, or consumer financial protections.
- To the extent that your experience was obtained with an organization or agency, describe generally the mission of each such organization or agency and the manner in which its mission is typically fulfilled.
- Describe your responsibilities in those positions and, if any were not full-time paid employment, indicate the amount of time you spent fulfilling those responsibilities annually.
- Describe your major accomplishments in those positions that relate to the experience needed to qualify as a public interest independent director.

Answer to Question 13

Regular Independent Directorship

If you are seeking a regular independent directorship, please answer in full Questions 14 – 15, which pertain to your professional qualifications to serve in that capacity. If you are seeking a public interest independent directorship, you are not required to answer these questions, but may choose to do so if you possess relevant knowledge and experience that you wish to highlight.

14. Primary Areas of Knowledge and Experience. Please indicate below, by checking the appropriate boxes, the professional areas in which you have significant knowledge or experience that is commensurate with that needed to oversee a financial institution with a size and complexity comparable to that of the Bank.

☐ Auditing and accounting

☐ Derivatives

☐ Financial management

☐ Organizational management

☐ Project development

☐ Risk management practices

☐ The law

15. Description of Knowledge and Experience. For each of your primary areas of professional knowledge and experience indicated in response to Question 14, please describe in detail the nature of that knowledge and experience and the circumstances under which you obtained it. At a minimum, for each area:

- Identify the entities with which you were employed or otherwise associated when you gained the knowledge or experience and briefly describe the business or mission of those entities (e.g., “investment bank,” “law firm,” etc.).
- Identify the positions you have held with those entities and describe your major accomplishments in those positions with respect to the relevant areas.

Note if more space needed for answer to Question 15, continue typing response onto page 11.

<i>Continuation of Answer to Question 15</i>

Other Matters

16. Personal Integrity. Is there anything in your background that might cause a reasonable person to question your personal integrity, your ability to fulfill the fiduciary duties of a board director, or your competence to supervise the management of the Bank (issues of concern could include, but are not limited to: past felony convictions or pending felony charges; any findings by a court or administrative body that you have violated federal or state civil laws relating to securities, banking, housing, or real estate; suspension or revocation of a professional license; a personal or business bankruptcy filing; a foreclosure action; or having been the subject of a tax lien)?

☐ Yes☐ No

If you answered Yes, please fully describe the incidents, the timeframes in which they occurred, and their ultimate disposition and provide supporting documentation where appropriate.

17. Conflicts of Interest. Other than any relationships described in response to Questions 7 – 8, do you or, to your knowledge, do any of your immediate family members (i.e., a parent, sibling, spouse, child, other dependent, or any relative sharing your residence) or close business associates (i.e., a corporation or organization of which you are an officer or a partner, or in which you own more than ten percent of any class of equity security (including subordinated debt); an individual that is an officer or a partner of, or who owns more than ten percent of any class of equity security (including subordinated debt) in, such a corporation or organization; or a trust in which you have a substantial interest or serve in a fiduciary capacity) have any financial interests or other relationships that might create actual or apparent conflicts of interest or might otherwise lead a reasonable person to question your ability to administer the affairs of the Bank fairly and impartially?

☐ Yes

☐ No

If you answered Yes, please fully describe the nature of those interests or relationships, the individuals or entities involved, and their relationship to you.

By executing this Form, you are certifying that: • The information you have provided is true, correct, and complete to the best of your knowledge; • You acknowledge that the Bank and the Federal Housing Finance Agency may perform a background check on you, including without limitation regarding any information disclosed herein; • You understand that you have a continuing obligation to inform the Bank of any facts that may call into question your eligibility or ability to serve as a Bank director; and • If you are nominated and elected to serve as a Bank director: ◦ You and your spouse will relinquish any positions that the Bank determines to be prohibited by the statutory and regulatory independence requirements for independent directors; and ◦ You will regularly attend the meetings of the Bank's board of directors and the Bank's board committees to which you are assigned and will devote the time necessary to adequately prepare for those meetings and execute your other responsibilities as an independent director.
Signature/Date:
<i>Reminder: Apply your electronic signature above here. If you physically sign, please include date.</i>
Privacy Act Statement: In accordance with the Privacy Act (5 U.S.C. 552a), the following notice is provided. This information is solicited under authority of 12 U.S.C. 1427(e) and (f) and 12 CFR 1261.5, 1261.7, and 1261.10 to 1261.13. Furnishing the information on this Form is voluntary, but failure to do so may result in your not meeting the statutory and regulatory eligibility requirements to serve as a Federal Home Loan Bank independent director. The purpose of this information is to facilitate the timely determination of your eligibility to serve as an independent director. Information may be disclosed in accordance with the routine uses identified in FHFA-System of Records Notice FHFA-8 Federal Home Loan Bank Directors, which may be found on the FHFA privacy webpage here.
Paperwork Reduction Act Statement: 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.
OMB No. 2590-0006 Expires 07/31/2024

	FEDERAL HOUSING FINANCE AGENCY Federal Home Loan Bank Independent Director Annual Certification Form	FHFA Form #130 (03/2023)
INSTRUCTIONS		Clear Form
The Federal Home Loan Bank of _____ (Bank) is required by law to solicit information from its incumbent directors annually to verify that each director remains in compliance with the applicable statutory and regulatory eligibility requirements. Your responses to the questions on this Federal Home Loan Bank Independent Director Annual Certification Form will assist the Bank in verifying that you continue to meet the eligibility requirements that apply to the independent directorship in which you are currently serving. Please complete and execute this Form and return it to the Bank on or before _____. If you fail to submit a completed and executed Form by that date, or if you submit a Form that does not adequately demonstrate that you continue to meet all applicable eligibility requirements, the Bank may determine that you are ineligible to serve, in which case the Bank would be required by law to declare your directorship vacant. You are eligible to serve as an independent director of the Bank only if you meet all of the following requirements: • You are a citizen of the United States. • You are a <i>bona fide</i> resident of the Bank District, as determined by meeting either one of the following two sets of criteria: ◦ Your principal residence is located in the Bank District; or ◦ You both: ▪ Own or lease in your own name a residence in the Bank District; and ▪ Are employed in a voting state in the Bank District. • Neither you nor your spouse are: ◦ An officer of any Federal Home Loan Bank; or ◦ An officer, employee, or director of any member of, or recipient of advances from, the Bank. For purposes of this prohibition: ▪ "Advances" includes any form of lending, regardless of whether it is denominated as an "advance"; and ▪ "Member" and "recipient of advances" include the institution itself and the institution's holding company, except where the assets of all members or all recipients of advances constitute less than 35 percent of the assets of the holding company, on a consolidated basis. These eligibility requirements may be found in sections 7(a) and (b) of the Federal Home Loan Bank Act, 12 U.S.C. 1427(a) and (b), and in Federal Housing Finance Agency regulations at 12 CFR 1261.5(c) and 1261.10.		

PERSONAL INFORMATION				
Please provide your personal information as indicated in Questions 1 – 4.				
1. Full Name:				
2. Other Names Used or Known by:				
3. Contact Information:				
Phone Number:				
Home:		Office:	Cell:	
Email Address:				
Mailing Address:				
Number/Street (or PO Box)		City	State	ZIP Code
4. Current Employment, if applicable:				
Current Employer:				
Your Title:				
Your Employment Address:				
Number/Street (or PO Box)		City	State	ZIP Code
ELIGIBILITY REQUIREMENTS				
Please answer Questions 5 – 8, regarding your eligibility to serve as an independent director in full.				
<i>Citizenship and Residency</i>				
You must meet the legal requirements as to U.S. citizenship and Bank District residency to be eligible for nomination for an independent directorship.				
5. Citizenship.				
Are you a citizen of the United States?			☐ Yes	☐ No
6. Residency.				
A. Please provide the street address of your principal residence.				
Address:				
Number/Street		City	State	ZIP Code

<i>If the residence entered in response to Question 6A is located within the Bank District, you meet the residency requirement and may skip to Question 7.</i> <i>If your principal residence is not located within the Bank District, you may still meet the residency requirement if you own or lease another residence located within the Bank District and are employed within the Bank District. In this case, please continue with Question 6B. If you do not own or lease any residence within the Bank District, you are ineligible to be nominated for an independent directorship.</i>			
B. If your principal residence is not located within the Bank District, but you own or lease another residence within the Bank District, please provide the address of that residence.			
Address:			
Number/Street	City	State	ZIP Code
C. Are you employed within the Bank District? ☐ Yes ☐ No			
D. If you answered Yes to Question 6C, please identify your in-District employer. ☐ Check if your in-District employment information is the same as that entered in response to Question 4. ☐ Check if your in-District employment information is different from that entered in response to Question 4, then provide the following information.			
Name of Your In-District Employer:			
Your Title:			
Your Employment Address:			
Number/Street	City	State	ZIP Code
Independence			
The information you provide below will enable the Bank to determine whether you continue to meet the independence requirements. You may be nominated if you do not currently meet the independence requirements, but you must agree as part of the certification at the end of this Form that you and your spouse will relinquish any positions that the Bank determines to be prohibited under those requirements. If elected, you may not be seated as an independent director so long as you or your spouse hold any such prohibited positions and, once seated, would become ineligible to continue to serve as an independent director if you or your spouse were to take any such prohibited positions.			
7. Employment by a Federal Home Loan Bank. A. Are you or your spouse an officer or employee of any Federal Home Loan Bank? ☐ Yes ☐ No			

B. If you answered Yes to Question 7A, please provide the following information for each such position held by you or your spouse:

Name of the Person Holding the Position:

Federal Home Loan Bank of:

Title:

Date Position Began:

8. Employment by a Bank Member, Housing Associate, or Holding Company.

A. Are you or your spouse an officer, director, or employee of a member of the Bank, an entity certified as a housing associate of the Bank, or a holding company that controls one or more members or housing associates of the Bank? ☐ Yes ☐ No

B. If you answered Yes to Question 8A, please provide the following information for each such position held by you or your spouse:

Name of the Person Holding the Position:

Name of the Employer:

Choose the appropriate response below to indicate whether the employer is:

- ☐ a member
- ☐ a holding company of a member
- ☐ a housing associate
- ☐ a holding company of a housing associate

Title:

Date Position Began:

If the employer is a holding company:

- Indicate the total assets of the holding company;
- Indicate the total assets of each member or housing associate of the Bank controlled by the holding company; and
- Provide, or direct the Bank to, documentation to support those amounts.

Note if more space needed for answer to Question 8, continue typing response onto page 5.

Continuation of Answer to Question 8	
By executing this Form, you are certifying that the information you have provided is true, correct, and complete to the best of your knowledge and that you understand that you have a continuing obligation to inform the Bank of any facts that may call into question your eligibility or ability to serve as a Bank director. You further acknowledge that the Bank and the Federal Housing Finance Agency may perform a background check on you, including without limitation regarding any information disclosed herein.	
Signature/Date:	
<i>Reminder: Apply your electronic signature above here. If you physically sign, please include date.</i>	
Privacy Act Statement: In accordance with the Privacy Act (5 U.S.C. 552a), the following notice is provided. This information is solicited under authority of 12 U.S.C. 1427(a) and (b) and 12 CFR 1261.5, 1261.7, and 1261.10 to 1261.13. Furnishing the information on this Form is voluntary, but failure to do so may result in your not meeting the statutory and regulatory eligibility requirements to continue to serve as a Federal Home Loan Bank independent director. The purpose of this information is to facilitate the timely determination of your eligibility to continue to serve as an independent director. Information may be disclosed in accordance with the routine uses identified in FHFA-System of Records Notice FHFA-8 Federal Home Loan Bank Directors, which may be found at here.	
Paperwork Reduction Act Statement: 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.	
OMB No. 2590-0006 Expires 07/31/2024	

	FEDERAL HOUSING FINANCE AGENCY	FHFA Form #131 (04/2022)
Federal Home Loan Bank Member Director Eligibility Certification Form		
INSTRUCTIONS		Clear All Fields
This Federal Home Loan Bank Member Director Eligibility Certification Form must be completed by individuals wishing to accept a nomination to stand for election as a member director of the Federal Home Loan Bank of (Bank) or to be considered for appointment by the Bank's board to fill a member directorship that has become vacant. It must also be completed annually by each incumbent member director. Your responses to the questions on this Form will assist the Bank in verifying that you meet the eligibility requirements to serve as a member director. Please complete and execute this Form and return it to the Bank on or before		
You are eligible to serve as a member of the Bank only if you meet all of the following requirements: • You are a citizen of the United States. • You are an officer or director of a member institution of the Bank: ◦ That was a member of the Bank as of December 31, ; and ◦ Whose voting state for purposes of Bank directorship elections is the state that is represented by the directorship for which you have been nominated; and • Each member of the Bank for which you are an officer or director is in compliance with all of its applicable minimum capital requirements established by its primary regulator (this requirement does not apply in the case of any member for which you are an officer or director that does not have capital requirements established by a primary regulator, such as a non-depository community development financial institution).		
These eligibility requirements may be found in sections 7(a) and (b) of the Federal Home Loan Bank Act, 12 U.S.C. 1427(a) and (b), and in Federal Housing Finance Agency regulations at 12 CFR 1261.5(a) and (b).		
Please follow the instructions below appropriate for the purpose for which you are completing this Form.		
NOMINEES IN THE ANNUAL ELECTION CYCLE		
If you have been nominated to stand for election as a member director of the Bank you must complete and execute this Form and submit it to the Bank on or before the date specified by the Bank to accept the nomination. If you do not submit a completed and executed Form by that date, you will be deemed to have declined the nomination. By law, the Bank may not permit a directorship nominee to stand for election unless it has verified that the nominee is legally eligible to serve in the directorship for which he or she has been nominated. Further, the Bank may neither declare elected any nominee nor seat any director-elect whom it has reason to know is ineligible to serve.		

CANDIDATES TO FILL A VACANT MEMBER DIRECTORSHIP			
If the Bank's board of directors is considering you as a candidate to fill the unexpired term of office of a vacant member directorship on the Bank's board, you must complete and execute this Form and return it to the Bank on or before the date specified by the Bank. If you fail to submit a completed and executed Form by that date, or if you submit a Form that does not adequately demonstrate that you meet all applicable eligibility requirements, the Bank may determine that you are ineligible to serve, in which case the Bank's board would be prohibited by law from electing you to fill the vacant directorship. By law, the Bank's board may not elect any person to fill a vacant directorship unless it has verified that the individual is legally eligible to serve in that directorship.			
ANNUAL ELIGIBILITY CERTIFICATIONS BY INCUMBENT DIRECTORS			
The Bank is required by law to solicit information from its incumbent directors annually to verify that each director remains in compliance with the applicable statutory and regulatory eligibility requirements. During each calendar year that you are an incumbent member director, you must complete and execute this Form and return it to the Bank on or before the date specified by the Bank. If you fail to submit a completed and executed Form by that date, or if you submit a Form that does not adequately demonstrate that you continue to meet all applicable eligibility requirements, the Bank may determine that you are ineligible to serve, in which case it would be required by law to declare your directorship vacant.			
PERSONAL INFORMATION			
Please provide your personal information as indicated in Questions 1 – 4.			
1. Full Name: 2. Other Names Used or Known by: 3. Contact Information: Phone Number: Home: Office: Cell: E-mail Address: Mailing Address: Number/Street (or PO Box) City State ZIP Code			
ELIGIBILITY REQUIREMENTS			
Please answer Question 4 – 6, which pertain to your compliance with the statutory and regulatory eligibility requirements for member directors, in full. You may continue your answers onto additional pages, if necessary, each of which shall be attached to, and deemed a part of, this Form.			
4. Citizenship. Are you a citizen of the United States? ☐ Yes ☐ No			

5. **Primary Member Affiliation.** Please provide the following information about the entity you serve as an officer or director that is a member of the Bank on whose board you serve or have been nominated to serve:

Name of the member:

FHFA ID number of the member:

Voting state in which the member is located:

Your title:

Your business address at the member:

Number/Street

City

State

ZIP Code

Does this member comply with all applicable minimum capital requirements established by its primary regulator?

☐ Yes

☐ No

☐ Not Applicable

6. **Other Member Affiliations.** Please provide the following information about any other entity you serve as an officer or director that is a member of the Bank on whose board you serve or have been nominated to serve (if more than one, please provide the information on a separate sheet, which shall be attached to, and deemed a part of, this Form):

A. Other than the institution you listed in response to Question 5, do you serve as an officer or director of any other institution that is a member of this Bank?

☐ Yes

☐ No

B. If you answered Yes to Question 6A, please provide the following information for each member of the Federal Home Loan Bank that you serve as an officer or director:

Name of the member:

FHFA ID number of the member:

Your title:

Does this member comply with all applicable minimum capital requirements established by its primary regulator?

☐ Yes

☐ No

☐ Not Applicable

By executing this Form, you are certifying that the information you have provided is true, correct, and complete to the best of your knowledge and that you understand that you have a continuing obligation to inform the Bank of any facts that may call into question your eligibility or ability to serve as a Bank director. You further acknowledge that the Bank and the Federal Housing Finance Agency may perform a background check on you, including without limitation regarding any information disclosed herein.
Signature/Date: <i>Reminder: Apply your electronic signature above here. If you physically sign, please include date.</i>
Privacy Act Statement: In accordance with the Privacy Act (5 U.S.C. 552a), the following notice is provided. This information is solicited under authority of 12 U.S.C. 1427(a) and (b) and 12 CFR 1261.5, 1261.7, and 1261.10 to 1261.13. Furnishing the information on this Form is voluntary, but failure to do so may result in your not meeting the statutory and regulatory eligibility requirements to serve as a Federal Home Loan Bank member director. The purpose of this information is to facilitate the timely determination of your eligibility to serve as a member director. Information may be disclosed in accordance with the routine uses identified in FHFA-System of Records Notice FHFA-8 Federal Home Loan Bank Directors, which may be found here.
Paperwork Reduction Act Statement: 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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.
OMB No. 2590-0006 Expires 07/31/2024

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BILLING CODE 8070-01-C

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices;
Acquisitions of Shares of a Bank or
Bank Holding Company

The notificants listed below have
applied under the Change in Bank

Control Act (Act) (12 U.S.C. 1817(j)) and
§ 225.41 of the Board’s Regulation Y (12
CFR 225.41) to acquire shares of a bank
or bank holding company. The factors
that are considered in acting on the
applications are set forth in paragraph 7
of the Act (12 U.S.C. 1817(j)(7)).
The public portions of the
applications listed below, as well as
other related filings required by the
Board, if any, are available for
immediate inspection at the Federal

Reserve Bank(s) indicated below and at
the offices of the Board of Governors.
This information may also be obtained
on an expedited basis, upon request, by
contacting the appropriate Federal
Reserve Bank and from the Board’s
Freedom of Information Office at
[https://www.federalreserve.gov/foia/
request.htm](https://www.federalreserve.gov/foia/request.htm). Interested persons may
express their views in writing on the
standards enumerated in paragraph 7 of
the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than August 28, 2024.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414. Comments can also be sent electronically to

Comments.applications@chi.frb.org:

1. *Richard D. Anderson, Dahinda, Illinois, individually and as trustee of the Mary Jan Anderson Trust, Galesburg, Illinois; Andrew V. Anderson, Monument, Colorado; Megan L. Compton and Wesley J. Anderson, both of Oneida, Illinois; to form the Anderson Family Control Group, a group acting in concert, to acquire voting shares of Anderson Bancorp, Inc., and thereby indirectly acquire voting shares of Anderson State Bank, both of Oneida, Illinois.*

Board of Governors of the Federal Reserve System.

Erin Cayce,

Assistant Secretary of the Board.

[FR Doc. 2024-18025 Filed 8-12-24; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the

Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551-0001, not later than September 12, 2024.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414. Comments can also be sent electronically to

Comments.applications@chi.frb.org:

1. *Thumb Bancorp., Inc. Employee Stock Ownership Plan and Thumb Bancorp, Inc., both of Pigeon, Michigan; to acquire Freeland State Bank through a merger with a newly formed subsidiary, FSB Interim Bank, both of Freeland, Michigan.*

B. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri, 64198-0001. Comments can also be sent electronically to *KCAApplicationComments@kc.frb.org:*

1. *Banner County Ban Corporation Employee Stock Ownership Plan and Trust; to acquire up to 46.81 percent of the voting shares of Banner County Ban Corporation, and thereby indirectly acquire additional voting shares of Banner Capital Bank, all of Harrisburg, Nebraska.*

Board of Governors of the Federal Reserve System.

Erin Cayce,

Assistant Secretary of the Board.

[FR Doc. 2024-18026 Filed 8-12-24; 8:45 am]

BILLING CODE P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0177; Docket No. 2024-0053; Sequence No. 11]

Submission for OMB Review; Reporting Executive Compensation and First-Tier Subcontract Awards

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division has submitted to the Office of Management and Budget (OMB) a request to review and approve a reinstatement of a previously approved information collection regarding reporting executive compensation and first-tier subcontract awards.

DATES: Submit comments on or before September 12, 2024.

ADDRESSES: Written comments and recommendations for this 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:

Zenaida Delgado, Procurement Analyst, at telephone 202-969-7207, or zenaida.delgado@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. OMB Control Number, Title, and any Associated Form(s):

9000-0177, Reporting Executive Compensation and First-tier Subcontract Awards.

B. Need and Uses

This clearance covers the information that contractors must report to the Federal Subaward Reporting System (FSRS) to comply with requirements under the Federal Acquisition Regulation (FAR) clause at 52.204-10, Reporting Executive Compensation and First-Tier Subcontract Awards. OMB Control No. 3090-0292 covers the information that nonprocurement entities must submit to FSRS. The separate collection for procurement entity reporting increases clarity and visibility of the specific FAR reporting

requirements. This clearance covers the following sections of FAR clause 52.204–10:

- FAR 52.204–10(d)(2), First-tier subcontract information. Contractors shall report the following information for their first-tier subcontracts at <http://www.fsrs.gov> by the end of the month following the month of award of a first-tier subcontract valued at or above \$30,000:

- (i) Unique entity identifier for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

- (ii) Name of the subcontractor.

- (iii) Amount of the subcontract award.

- (iv) Date of the subcontract award.

- (v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

- (vi) Subcontract number (the subcontract number assigned by the contractor).

- (vii) Subcontractor's physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

- (viii) Subcontractor's primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

- (ix) The prime contract number, and order number if applicable.

- (x) Awarding agency name and code.

- (xi) Funding agency name and code.

- (xii) Government contracting office code.

- (xiii) Treasury account symbol as reported in FPDS.

- (xiv) The applicable North American Industry Classification System code.

Contractors shall follow the instructions at FSRS.gov to report the data. Contractors may access FSRS with their Electronic Subcontract Reporting System (eSRS) user account since access to FSRS and eSRS is accomplished with a single account, single log-in. The burden for the eSRS information collection is covered under OMB Control No. 9000–0007, Subcontracting Plans.

- FAR 52.204–10(d)(3), Executive compensation of the first-tier subcontractor.

Contractors shall report the names and total compensation of each of the five most highly compensated executives for their first-tier subcontractors for that first-tier subcontractor's preceding completed fiscal year at <http://www.fsrs.gov>, if—

- (i) In the subcontractor's preceding fiscal year, the subcontractor received—

- (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

- (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

- (ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

FAR 52.204–10(d)(1) requires contractors to report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year as part of the contractor's annual registration requirement in the System for Award Management (SAM) (FAR provision 52.204–7). The burden for the SAM information collection is covered under OMB Control No. 9000–0189, Certain Federal Acquisition Regulation Part 4 Requirements.

This collection of information is required to comply with section 2 of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282) (FFATA), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110–252) (31 U.S.C. 6101 note). The statute required the Office of Management and Budget to establish a free, public, online database containing full disclosure of all Federal contract award information. The public may view first-tier subcontract award data at usaspending.gov.

C. Annual Burden

Respondents: 42,231.

Total Annual Responses: 266,169.

Total Burden Hours: 506,617.

D. Public Comment

A 60-day notice was published in the **Federal Register** at 89 FR 45894, on May 24, 2024. Comments were received from five respondents; however, they did not change the estimate of the burden.

Comment: A respondent expressed support of the collection as beneficial for the small business community.

Response: The respondents' input is appreciated.

Comment: Multiple respondents opposed the reinstatement of the information collection citing the following concerns: the benefits of the collection do not justify the associated costs and challenges; the collection of information is overly intrusive and unnecessary for the proper performance of the functions of Federal Government acquisitions; the data collected is unlikely to enhance transparency or accountability in a meaningful way; the burdensome nature of the reporting requirements discourage companies from participating in Federal contracting, ultimately reducing competition and innovation; and the data collected raises significant privacy concerns, with potential risks of misuse or exposure of sensitive personal information.

Response: The OMB clearance for this collection of information is required to comply with the Paperwork Reduction Act. This reinstatement covers the information that contractors report to the FSRS to comply with requirements under the FAR clause at 52.204–10, Reporting Executive Compensation and First-Tier Subcontract Awards. FAR clause 52.204–10 implemented section 2 of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109–282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110–252) (31 U.S.C. 6101 note), which requires contractors to report subcontract award data and the total compensation of the five most highly compensated executives of the contractor and subcontractor. The statute required OMB to establish a free, public, online database containing full disclosure of all Federal contract award information. The public may view first-tier subcontract award data at USASpending.gov. Changes to the information collected require a change in the law.

Comment: A respondent expressed concerns with the burden estimate of twelve hours per contractor each year being too low.

Response: The burden to report the subcontractor award information per FAR 52.204–10(d)(2) is estimated to average 2 hours per response for a prime contractor. The information on a first-tier subcontract covered by paragraph (d)(2) is reported when the subcontract is awarded, and further reporting is only required if one of the reported data elements changes during the performance of the subcontract. The burden to report the subcontractor executive compensation per FAR

52.204–10(d)(3) is estimated to average 1 hour per response for a prime contractor. The information on a first-tier subcontract covered by paragraph (d)(3) is reported when the subcontract is awarded and annually thereafter if needed. The aggregate of twelve hours per contractor per year covers the reporting variation that firms may experience.

Obtaining Copies: Requesters may obtain a copy of the information collection documents from the GSA Regulatory Secretariat Division by calling 202–501–4755 or emailing GSARegSec@gsa.gov. Please cite OMB Control No. 9000–0177, Reporting Executive Compensation and First-tier Subcontract Awards.

Janet Fry,

Director, Federal Acquisition Policy Division,
Office of Governmentwide Acquisition Policy,
Office of Acquisition Policy, Office of
Governmentwide Policy.

[FR Doc. 2024–18005 Filed 8–12–24; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Environmental, Clinical and Economic Outcomes of Hospital Resources To Prevent Hospital- Acquired Infections

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Request for supplemental evidence and data submission.

SUMMARY: The Agency for Healthcare Research and Quality (AHRQ) is seeking scientific information submissions from the public. Scientific information is being solicited to inform our review on *Environmental, Clinical and Economic Outcomes of Hospital Resources to Prevent Hospital-Acquired Infections*, which is currently being conducted by the AHRQ's Evidence-based Practice Centers (EPC) Program. Access to published and unpublished pertinent scientific information will improve the quality of this review.

DATES: *Submission Deadline* on or before September 12, 2024.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kelly Carper, Telephone: 301–427–1656 or Email: epc@ahrq.hhs.gov.

SUPPLEMENTARY INFORMATION: The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Centers (EPC) Program to complete a review of the evidence for *Environmental, Clinical and Economic Outcomes of Hospital Resources to Prevent Hospital-Acquired Infections*. AHRQ is conducting this review pursuant to section 902 of the Public Health Service Act, 42 U.S.C. 299a.

The EPC Program is dedicated to identifying as many studies as possible that are relevant to the questions for each of its reviews. In order to do so, we are supplementing the usual manual and electronic database searches of the literature by requesting information from the public (e.g., details of studies conducted). We are looking for studies that report on *Environmental, Clinical and Economic Outcomes of Hospital Resources to Prevent Hospital-Acquired Infections*. The entire research protocol is available online at: <https://effectivehealthcare.ahrq.gov/products/prevent-hai/protocol>.

This is to notify the public that the EPC Program would find the following information on *Environmental, Clinical and Economic Outcomes of Hospital Resources to Prevent Hospital-Acquired Infections* helpful:

- A list of completed studies that your organization has sponsored for this topic. In the list, please *indicate whether results are available on ClinicalTrials.gov along with the ClinicalTrials.gov trial number*.
- *For completed studies that do not have results on ClinicalTrials.gov*, a summary, including the following elements, if relevant: study number,

study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, primary and secondary outcomes, baseline characteristics, number of patients screened/eligible/enrolled/lost to follow-up/withdrawn/analyzed, effectiveness/efficacy, and safety results.

■ *A list of ongoing studies that your organization has sponsored for this topic.* In the list, please provide the ClinicalTrials.gov trial number or, if the trial is not registered, the protocol for the study including, if relevant, a study number, the study period, design, methodology, indication and diagnosis, proper use instructions, inclusion and exclusion criteria, and primary and secondary outcomes.

■ Description of whether the above studies constitute *ALL Phase II and above clinical trials* sponsored by your organization for this topic and an index outlining the relevant information in each submitted file.

Your contribution is very beneficial to the Program. Materials submitted must be publicly available or able to be made public. Materials that are considered confidential; marketing materials; study types not included in the review; or information on topics not included in the review cannot be used by the EPC Program. This is a voluntary request for information, and all costs for complying with this request must be borne by the submitter.

The draft of this review will be posted on AHRQ's EPC Program website and available for public comment for a period of 4 weeks. If you would like to be notified when the draft is posted, please sign up for the email list at: <https://effectivehealthcare.ahrq.gov/email-updates>.

The review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

Guiding Questions (GQ)

GQ 1. What healthcare research examines the health, economic, and environmental outcomes of reprocessed reusable devices and items or reprocessed single-use devices and items compared with non-reprocessed single-use devices and items in hospital settings?

GQ 2. What are key evidence gaps and opportunities for future research?

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, TIMING, AND SETTING) INCLUSION AND EXCLUSION CRITERIA

Category	Inclusion criteria	Exclusion criteria
Population	<i>Primary:</i> Individuals receiving acute medical care	Individuals receiving ambulatory care.
Interventions	<i>Secondary:</i> Healthcare workers using or caring for devices used in patient care	Devices/items with minimal or no pathogen transmission risk.
	<i>Primary interest:</i> Devices/items that are intended to prevent infection or are used for general bedside care, including but not limited to PPE, drapes, linens, laryngoscopes, blood pressure cuffs, pulse oximeters.	Devices/items primarily used in an ambulatory or non-acute-care setting.
	<i>Secondary interest:</i> Other devices/items used during hospital care, including but not limited to: surgical devices, other scopes.	Devices/items that have been reprocessed under emergency use authorization only.
	Regulatory status: All devices/items must be either	Implantable devices other than catheters.
	- FDA approved as reusable, and reprocessed per specifications. - OR - Designated as single-use, FDA authorized for reprocessing, and reprocessed per specifications.	
Comparators	Devices/items that are approved as single-use and are discarded after one use	Single-use devices/items for which no reusable or authorized reprocessed alternatives are available in the US.
Outcomes	<i>Health outcomes</i> (Patient-level or aggregated patient data)	Quality of reprocessing.
	Outcomes include but are not limited to: HAI, SSI, or pathogen transmission (including MDRO; Sepsis; ICU stay related to HAI; Length of stay; Mortality; Adverse effects; Healthcare worker infection or injury).	Usability by healthcare workers or patients.
	<i>Economic outcomes</i> (Hospital/health system perspective)	Device/item preferences of healthcare workers or patients.
	Outcomes include but are not limited to: Procurement cost; Cost per procedure/use; Costs for: reprocessing, transportation, storage, functionality testing, maintenance, repair, disposal, replacement; Supply chain implications.	Device/item availability.
	<i>Environmental outcomes</i>	Bacterial colonization of device/item.
	<i>a. Environmental impact</i>	
	(Global, national, or regional perspective).	
	Outcomes include but are not limited to: Greenhouse gas emissions; Air pollution; Water use; Water contamination; Energy use; Chemical use and toxicity; Recycling volume; Landfill use; Carcinogenic exposure; Climate change; Raw material extraction and processing.	
	<i>b. Environmental health</i>	
	(Population health perspective).	
	Outcomes include but are not limited to: Respiratory illness; Cardiovascular disease; Cancer risk; Infectious disease outbreaks.	
Timing	Any	NA.
Setting	Acute care hospitals in countries rated “very high” on the 2021 Human Development Index (as defined by the United Nations Development Programme)*.	Non-hospital settings.
Publication type	English language	Other countries.
	For primary interest interventions (devices/items used to prevent infections or for general bedside care): SRs, randomized controlled trials, nonrandomized controlled studies.	Non-English-language, abstracts, case reports, non-comparative studies, narrative reviews, commentaries, guidelines.
	For secondary interest interventions (other devices/items used for hospital care): SRs.	

FDA: Food and Drug Administration; HAI: Healthcare-associated infection; ICU: Intensive care unit; MDRO: Multi-drug resistant organism; NA: Not applicable; PPE: Personal protective equipment; SR: Systematic review; SSI: Surgical site infection; US: United States.
*Human development index. United Nations Development Programme. Accessed April 16, 2024. <https://hdr.undp.org/data-center/human-development-index#/indicies/HDI>.

Mamatha Pancholi,
Deputy Director.
[FR Doc. 2024–17935 Filed 8–12–24; 8:45 am]
BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare

Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) approve the extension without change of the currently approved information collection “Surveys on Patient Safety Culture (SOPS) Ambulatory Surgery Center (ASC) Survey Database, (OMB No. 0935–0242).”

DATES: Comments on this notice must be received by October 15, 2024.

ADDRESSES: Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at REPORTSCLEARANCEOFFICER@ahrq.hhs.gov.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden

can be obtained from the AHRQ Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Doris Lefkowitz, AHRQ Reports Clearance Officer, (301) 427–1477, or by email at REPORTSCLEARANCEOFFICER@ahrq.hhs.gov.

SUPPLEMENTARY INFORMATION:

Proposed Project

Surveys on Patient Safety Culture® (SOPS®) Ambulatory Surgery Center (ASC) Survey Database

In 1999, the Institute of Medicine called for healthcare organizations to develop a “culture of safety” such that their workforce and processes focus on improving the reliability and safety of care for patients (IOM, 1999; *To Err is Human: Building a Safer Health*

System). To respond to the need for tools to assess patient safety culture in healthcare, AHRQ developed and pilot tested the Surveys on Patient Safety Culture® (SOPS®) Ambulatory Surgery Centers (ASC) Survey with OMB approval (OMB NO. 0935–0216; approved October 31, 2013).

The SOPS–ASC is designed to enable ASCs to assess provider and staff perspectives about patient safety issues, medical error, and error reporting. The survey includes 27 items that measure 8 composites of patient safety culture. In addition to the composite items, the survey includes one item measuring how often ASCs document near-misses; one item asking whether the respondent is in the room during surgeries, procedures, or treatments; and three items about communication before and after surgeries, procedures, or treatments. The survey also includes an overall rating item on patient safety, two items about respondent characteristics, and a section for open-ended comments. AHRQ made the survey publicly available along with a Survey User's Guide and other toolkit materials in May 2015 on the AHRQ website.

The AHRQ SOPS–ASC Database consists of data from the AHRQ ASC Survey on Patient Safety Culture. Ambulatory surgery centers in the U.S. can voluntarily submit data from the survey to AHRQ, through its contractor, Westat. The SOPS ASC Database (OMB NO. 0935–0242; last approved on October 7, 2021; expiration date October 31, 2024) was developed by AHRQ in 2019 in response to requests from ASCs interested in tracking their own survey results. Organizations submitting data receive a feedback report, as well as a report of the aggregated, de-identified findings of the other ASCs submitting data. These reports are used to assist ASC staff in their efforts to improve patient safety culture in their organizations.

The SOPS ASC Survey and the SOPS ASC Database support AHRQ's goals of promoting improvements in the quality and safety of healthcare in ASCs. The survey, toolkit materials, and database results are all made publicly available on AHRQ's website. Technical

assistance is provided by AHRQ through its contractor at no charge to ASCs, to facilitate the use of these materials for ASC patient safety and quality improvement.

The SOPS–ASC database:

- (1) Presents results from ASCs that voluntarily submit their data;
- (2) Provides data to ASCs to facilitate internal assessment and learning in the patient safety improvement process; and
- (3) Provides supplemental information to help ASCs identify their strengths and areas with potential for improvement in patient safety culture.

To achieve these goals, the following activities and data collections will be implemented:

(1) **Eligibility and Registration Form**—The point-of-contact (POC), often the manager of the ASC, completes a number of data submission steps and forms, beginning with completion of an online Eligibility and Registration Form. The purpose of this form is to collect basic demographic information about the ASC and initiate the registration process.

(2) **ASC Site Information**—The purpose of the site information form, completed by the ASC POC, is to collect background characteristics of the ASC. This information will be used to analyze data collected with the SOPS ASC Survey.

(3) **Data Use Agreement**—The purpose of the data use agreement, completed by the ASC manager, is to state how data submitted by ASCs will be used and provides confidentiality assurances.

(4) **SOPS ASC Survey Data File(s) Submission**—POCs upload their data file(s), using the SOPS ASC Survey data file specifications, to ensure that users submit their data in a standardized way (e.g., variable names, order, coding, formatting). The number of submissions to the database is likely to vary from submission period to submission period because ASCs do not administer the survey and submit data every year. Data submission is typically handled by one POC who is either an ASC administrative manager or a survey vendor who contracts with an ASC to collect and submit its data.

This study is being conducted by AHRQ through its contractor, Westat,

pursuant to AHRQ's statutory authority to conduct and support research on healthcare and on systems for the delivery of such care, including activities with respect to: the quality, effectiveness, efficiency, appropriateness and value of healthcare services; quality measurement and improvement; and database development. 42 U.S.C. 299a(a)(1), (2), and (8).

Method of Collection

All information collection for the SOPS ASC Database is done electronically, except the Data Use Agreement (DUA), which ASCs will print, sign, and return (either via fax, by scanning and emailing or uploading to a secure website, or by mailing back). Registration, submission of ASC information, and data upload is handled online through a secure website. Customized feedback reports will be delivered electronically (the person submitting the data will enter a username and password and will have access to a secure website from which to download their reports).

Estimated Annual Respondent Burden

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate in the database. The total burden is estimated to be 86 hours.

1. **Eligibility and Registration Form**—Completed once by 60 ASC POCs. The form takes about 3 minutes to complete.

2. **ASC Site Information**—Completed an average of 4 times by the 60 ASC POCs. The form takes 5 minutes to complete.

3. **Data Use Agreement**—Completed once by 60 ASC POCs. The form takes about 3 minutes to complete.

4. **SOPS ASC Survey Data File(s) Submission**—Each of the 60 POCs will submit their SOPS ASC Survey data. The data submission requires an hour on average to complete.

Exhibit 2 shows the estimated annualized cost burden based on the respondents' time to submit their data. The cost burden is estimated to be \$4,386 annually.

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
1. Eligibility and Registration Form	60	1	3/60	3
2. ASC Site Information	60	4	5/60	20
3. Data Use Agreement	60	1	3/60	3
4. SOPS ASC Survey Data Files Submission	60	1	1	60

EXHIBIT 1—ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Number of respondents/ POCs	Number of responses per POC	Hours per response	Total burden hours
Total	NA	NA	NA	86

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

Form name	Total burden hours	Average hourly wage rate *	Total cost burden
1. Eligibility and Registration Form	3	\$50.99	\$153
2. ASC Site Information	20	50.99	1,020
3. Data Use Agreement	3	50.99	153
4. SOPS ASC Survey Data Files Submission	60	50.99	3,060
Total	86	NA	4,386

* Based on the mean hourly wage for 60 ASC Administrative Services Managers (11–3010; \$50.99) obtained from the May 2023 National Industry-Specific Occupational Employment and Wage Estimates: NAICS 621400—Outpatient Care Centers (located at https://www.bls.gov/oes/current/naics4_621400.htm#11-00000).

Request for Comments

In accordance with the Paperwork Reduction Act, 44 U.S.C. 3501–3520, comments on AHRQ’s information collection are requested with regard to any of the following: (a) whether the proposed collection of information is necessary for the proper performance of AHRQ’s health care research and health care information dissemination functions, including whether the information will have practical utility; (b) the accuracy of AHRQ’s estimate of burden (including hours and costs) of the proposed collection(s) of information; (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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the Agency’s subsequent request for OMB approval of the proposed information collection. All comments will become a matter of public record.

Dated: August 8, 2024.

Marquita Cullom,
Associate Director.

[FR Doc. 2024–18003 Filed 8–12–24; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND
HUMAN SERVICES

Centers for Medicare & Medicaid
Services

[Document Identifiers: CMS–10239]

Agency Information Collection
Activities: Proposed Collection;
Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS’ intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency’s functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by October 7, 2024.

ADDRESSES: When commenting, please reference the document identifier or Office of Management and Budget (OMB) control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <https://www.regulations.gov>. Follow the instructions for “Comment or Submission” or “More Search Options” to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection’s supporting statement

and associated materials (see **ADDRESSES**).

CMS–10239 Conditions of Participation for Critical Access Hospitals (CAH) and Supporting Regulations

Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires Federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Conditions of Participation for Critical Access Hospitals (CAH) and Supporting Regulations; *Use:* The purpose of this package is to request from the Office of Management and Budget (OMB) the approval to reinstate, with changes, the information collection request, associated with OMB Control Number 0938–1043, titled “Critical Access Hospital (CAH) Conditions of Participation (CoPs) and Supporting Regulations.”

Sections 1820 and 1861(mm) of the Social Security Act provide that CAHs participating Medicare meet certain specified requirements. The regulations containing the information collection requirements are located at 42 CFR part 485, subpart F. These regulations implement sections 1102, 1138, 1814(a)(8), 1820(a–f), 1861(mm), 1864, and 1871 of the Act.

This is a reinstatement of the information collection request that expired on March 31, 2024. The previous iteration of this OMB No. 0938–1043 (approved March 25, 2021) had a burden of 33,905 annual hours. For this requested reinstatement, with changes, the estimated total annual burden hours for the industry is 898,332 hours and the estimated annual burden costs are \$74,020,673.

The increase in burden hours from the prior package is primarily due to new

information collections associated with new CoPs for CAHs outlined in the two CMS rules referenced below. The new CoPs include multiple information collection requirements that are one-time burdens for developing new policies and protocols and ongoing reporting requirements, such as daily or biweekly reporting of respiratory illnesses as well as maternal deaths. The reasons for the increased information collections are discussed in more detail in the rules and are summarized in the information collection request.

(1) Obstetrical services included in the proposed rule, Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs, Including the Hospital Inpatient Quality Reporting Program; Health and Safety Standards for Obstetrical Services in Hospitals and Critical Access Hospitals; Prior Authorization; Requests for Information; Medicaid and CHIP Continuous Eligibility; Medicaid Clinic Services Four Walls Exceptions; Individuals Currently or Formerly in Custody of Penal Authorities; Revision to Medicare Special Enrollment Period for Formerly Incarcerated Individuals; and All-Inclusive Rate Add-On Payment for High-Cost Drugs Provided by Indian Health Service and Tribal Facilities, 89 FR 59186 (July 22, 2024) (hereinafter referred to as the “July 2024 Proposed Rule”).

(2) Reporting of acute respiratory illnesses in the interest of public health and ensuring resiliency in the U.S. health care system included in the Final rule: Medicare and Medicaid Programs and the Children’s Health Insurance Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2025 Rates; Quality Programs Requirements; and Other Policy Changes. The aforementioned final rule, CMS–1808–F (RIN 0938–AV34), is currently on display at the Office of the Federal Register and scheduled for publication on August 28, 2024 (hereinafter referred to as the “August 2024 Final Rule”).

The change in total burden hours is also due to prior information collection requests are exempt from the PRA because the requirements are customary and usual industry practice and would take place in the absence of the Medicare and Medicaid programs. *Form Number:* CMS–10239 (OMB control number: 0938–1043); *Frequency:* Yearly; *Affected Public:* Private Sector (Business or other for-profit); *Number of*

Respondents: 1,245; *Total Annual Responses:* 9,145; *Total Annual Hours:* 898,332 (For policy questions regarding this collection contact Claudia Molinar at 410–786–8445).

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–18031 Filed 8–8–24; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10884]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS’ intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency’s functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by September 12, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting

“Currently under 30-day Review—Open for Public Comments” or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Prior Authorization Demonstration for Certain Ambulatory Surgical Center (ASC) Services; *Use:* Section 402(a)(1)(J) of the Social Security Amendments of 1967 (42 U.S.C. 1395b-1(a)(1)(J)) authorizes the Secretary to “develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by the Social Security Act (the Act).” Pursuant to this authority, CMS seeks to develop and implement a Medicare demonstration project, which CMS believes will assist in developing improved procedures for the identification, investigation, and prosecution of Medicare fraud occurring in ambulatory surgical centers providing services to Medicare beneficiaries. The information required for the prior authorization request includes all documentation necessary to show that

the service meets applicable Medicare coverage, coding, and payment rules. Prior to rendering the services, ASC providers should submit this information to the Medicare Administrative Contractors (MACs). Trained clinical reviewers at the MACs will review the information required for this collection to determine if the requested services are medically necessary and meet Medicare requirements. If an ASC provider does not submit a prior authorization request before rendering the service and submitting a claim to Medicare for payment, the MAC will request the required information from the ASC provider to determine if the service meets applicable Medicare coverage, coding, and payment rules before the claim is paid. *Form Number:* CMS-10884 (OMB Control Number: 0938-NEW); *Frequency:* Occasionally; *Affected Public:* Business or other for-profits; *Number of Respondents:* 4,038; *Number of Responses:* 95,579; *Total Annual Hours:* 59,904. (For policy questions regarding this collection contact Kelly Wojciechowski at kelly.wojciechowski@cms.hhs.gov or Justin Carlisle at Justin.Carlisle@cms.hhs.gov).

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024-17969 Filed 8-12-24; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2022-N-0691]

Advisory Committee; Peripheral and Central Nervous System Drugs Advisory Committee; Renewal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; renewal of Federal advisory committee.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the renewal of the Peripheral and Central Nervous System Drugs Advisory Committee by the Commissioner of Food and Drugs (the Commissioner). The Commissioner has determined that it is in the public interest to renew the Peripheral and Central Nervous System Drugs Advisory Committee for an additional 2 years beyond the charter expiration date. The new charter will be in effect until the June 4, 2026, expiration date.

DATES: Authority for the Peripheral and Central Nervous System Drugs Advisory Committee will expire on June 4, 2026, unless the Commissioner formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT:

Jessica Seo, Center for Drug Evaluation Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993-0002, 301-796-9001, PCNS@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 41 CFR 102-3.65 and approval by the Department of Health and Human Services and by the General Services Administration, FDA is announcing the renewal of the Peripheral and Central Nervous System Drugs Advisory Committee (the Committee). The Committee is a discretionary Federal advisory committee established to provide advice to the Commissioner. The Committee advises the Commissioner or designee in discharging responsibilities as they relate to helping to ensure safe and effective drugs for human use and, as required, any other product for which FDA has regulatory responsibility.

The Committee reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of neurologic diseases, and makes appropriate recommendations to the Commissioner of Food and Drugs.

Pursuant to its Charter, the Committee shall consist of a core of 12 voting members including two Chairpersons. Members and the Chairpersons are selected by the Commissioner or designee from among authorities knowledgeable in the fields of neurology, pediatric neurology, epidemiology, statistics, and related specialties. Members will be invited to serve for overlapping terms of up to 4 years. Non-Federal members of this committee will serve as Special Government Employees or representatives. Federal members will serve as Regular Government Employees or Ex-Officios. The core of voting members may include one technically qualified member, selected by the Commissioner or designee, who is identified with consumer interests and is recommended by either a consortium of consumer-oriented organizations or other interested persons. In addition to the voting members, the Committee may include one non-voting representative member who is identified with industry interests. There may also be an alternate industry representative.

The Commissioner or designee shall have the authority to select members of other scientific and technical FDA advisory committees (normally not to exceed 10 members) to serve temporarily as voting members and to designate consultants to serve temporarily as voting members when: (1) expertise is required that is not available among current voting standing members of the Committee (when additional voting members are added to the Committee to provide needed expertise, a quorum will be based on the combined total of regular and added members) or (2) to comprise a quorum when, because of unforeseen circumstances, a quorum is or will be lacking. Because of the size of the Committee and the variety in the types of issues that it will consider, FDA may, in connection with a particular committee meeting, specify a quorum that is less than a majority of the current voting members. The Agency's regulations (21 CFR 14.22(d)) authorize a committee charter to specify quorum requirements.

If functioning as a medical device panel, an additional non-voting representative member of consumer interests and an additional non-voting representative member of industry interests will be included in addition to the voting members.

Further information regarding the most recent charter and other information can be found at <https://www.fda.gov/advisory-committees/human-drug-advisory-committees/Peripheral-and-Central-Nervous-System-Drugs-advisory-committee> or by contacting the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**). In light of the fact that no change has been made to the committee name or description of duties, no amendment will be made to 21 CFR 14.100.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. 1001 *et seq.*) and 21 CFR part 14, relating to advisory committees. For general information related to FDA advisory committees, please visit us at <http://www.fda.gov/AdvisoryCommittees/default.htm>.

Dated: August 8, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024-18004 Filed 8-12-24; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS-0955-0019]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before September 12, 2024.

ADDRESSES: Submit your comments to Sherrette.Funn@hhs.gov or by calling (202) 264-0041 and PRA@HHS.GOV.

FOR FURTHER INFORMATION CONTACT:

When submitting comments or requesting information, please include the document identifier 0955-0019 and project title for reference, to Sherrette A. Funn, email: Sherrette.Funn@hhs.gov, PRA@HHS.GOV or call (202) 264-0041 the Reports Clearance Officer.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: National Survey of Health Information Exchange Organizations (HIO).

Type of Collection: New.

OMB No. 0955-0019.

Abstract: The Department of Health and Human Services, The Office of the Assistant Secretary for Technology Policy and Office of the National Coordinator for Health Information Technology, Electronic health information exchange (HIE) was one of three goals specified by Congress in the 2009 Health Information Technology for

Economic and Clinical Health (HITECH) Act to ensure that the \$30 billion federal investment in certified electronic health records (EHRs) resulted in higher-quality, lower-cost care. Subsequent legislation and regulations have continued to prioritize the sharing of data electronically across EHRs and other health information systems. Health information exchange organizations (HIOs) play a pivotal role facilitating health information exchange across disparate providers, labs, pharmacies, public health departments, and others. This information collection request will gather data from HIOs across the nation through the administration of a survey of HIOs to generate the most current national statistics and associated actionable insights to inform policy efforts. The timely collection of national data from our survey will assess current capabilities of HIOs to support effective electronic information sharing within the U.S. health care system.

Since prior to HITECH there has been ongoing assessment of trends in the capabilities of HIOs to support clinical exchange through nationwide surveys of HIOs. These prior surveys and studies have collected data on organizational structure, financial viability, geographic coverage, scope of services, scope of participants, perceptions of information blocking, support for public health exchange, and participation in national networks and the Technical Exchange Framework and Common Agreement (TEFCA). Continuing the ongoing data collection will be useful to construct a current and comprehensive picture of HIOs' role in facilitating exchange and ensuring rapid access to important health care data and information when it matters most, including vital data to address public health emergencies.

The survey will collect data on HIO capabilities to support electronic health information exchange, their maturity, and challenges they face. There are five key areas that require assessment: (1) adoption of technical standards; (2) perceptions related to information blocking; (3) HIE coordination at the federal level; (4) public health data exchange; and (5) organizational demographics, including technical capabilities offered by HIOs and the challenges they face in supporting electronic health information exchange.

This is a 3-year request for OMB approval.

ANNUALIZED BURDEN HOUR TABLE

Forms (if necessary)	Respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
HIO Survey	Executive Director	100	1	45/60	75
Total .....	.....	.....	1	.....	75

Sherrette A. Funn,
*Paperwork Reduction Act Reports Clearance
Officer, Office of the Secretary.*
[FR Doc. 2024–18023 Filed 8–12–24; 8:45 am]
BILLING CODE 4150–45–P

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**
[Docket No. FR–7086–N–23]
**60-Day Notice of Proposed Information
Collection: Multifamily Project
Applications and Construction Prior to
Initial; OMB Control No.: 2502–0029**
AGENCY: Office of the Assistant
Secretary for Housing-Federal Housing
Commissioner, HUD.
ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.
DATES: *Comments Due Date:* October 15, 2024.
ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to www.regulations.gov. Find this particular information collection by selecting “Currently under 60-day Review—Open for Public Comments” or by using the search function. Interested persons are also invited to submit comments regarding this proposal by

name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; telephone (202) 402–3400 (this is not a toll-free number) or email: PaperworkReductionActOffice@hud.gov.
FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email Colette.Pollard@hud.gov or telephone (202) 402–3400. This is not a toll-free number. HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech and communication disabilities. To learn more about how to make an accessible telephone call, please visit: <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of available documents submitted to OMB may be obtained from Ms. Pollard.
SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection
Title of Information Collection: Multifamily Project Applications and Construction Prior to Initial Closing.
OMB Approval Number: 2502–0029.
Type of Request: Reinstatement of approved collection for which approval has expired.
Form Number (s): HUD–92013, HUD–92013–SUPP, HUD–92013–A, HUD–92013–B, HUD–92013–C, HUD–92013–D, HUD–92264, HUD–92264–A, HUD–

92273, HUD–92274, HUD–92326, HUD–92329, HUD–92331, HUD–92415, HUD–92447, HUD–92452, HUD–92485, HUD–91708, HUD–92010, FM–1006, HUD–2880, HUD–92466, (Rider Forms—HUD–92466–R1, –92466–R2, –92466–R3, –92466–R4, –92466–R5), HUD–92466M, HUD–2408 HUD–95379 and HUD–2.
Description of the need for the information and proposed use: The information collection is utilized during the processing of an application for FHA insured mortgage. The respondents are owners/sponsors, general contractors, lenders, and others involved in multifamily housing projects/rehabs. One of the options used in processing an application for FHA insured mortgage is Multifamily Application Processing (MAP). Third party contractors for mortgage insurance perform MAP. Mortgagors submit application for Multifamily Projects, to an approved lender for a project to be insured by HUD. The lender’s underwriters will complete all processing forms and submit them to HUD. The contractors involved are architects, cost analysts, appraisers, and mortgage credit analysts. An environmental review is also conducted, as well as a market analysis.
The information collection allows the multifamily staff to determine the appropriate mortgage insurance premium to apply in the underwriting of the loan for an FHA insured mortgage.
Respondents: FHA lenders, borrowers, participating in HUD Multifamily mortgage insurance programs as principals of sponsors, mortgagors, and general contractors.
Estimated Number of Respondents: 23,588.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
26 Application Forms ...	23,588	1	34,588	9	383,056	\$51.00	\$19,543,856

B. Solicitation of Public Comment
This notice is soliciting comments from members of the public and affected parties concerning the collection of

information described in Section A on the following:
(1) Whether the proposed collection of information is necessary for the

proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Jeffrey D. Little,

General Deputy Assistant Secretary, Office of Housing.

[FR Doc. 2024–17987 Filed 8–12–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7082–N–06]

60-Day Notice of Proposed Information Collection: Recordkeeping Requirements Under the Uniform Relocation Assistance and Real Property Acquisitions Policy Act; OMB Control No.: 2506–0121

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* October 15, 2024.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection can be sent within 60 days of publication of this notice to www.regulations.gov. Find this particular information collection by selecting “Currently under 60-day Review—Open for Public Comments” or by using the search function. Interested persons are also invited to submit comments regarding this proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Room 8210, Washington, DC 20410; telephone (202) 402–3400 (this is not a toll-free number) or email: PaperworkReductionActOffice@hud.gov.

FOR FURTHER INFORMATION CONTACT: Lori Martin, Relocation Specialist, Relocation and Real Estate Division, CGHR, Department of Housing and Urban Development, 909 First Avenue, Seattle, WA 98104; email Lori.Martin@hud.gov, (206) 220–5373. This is not a toll-free number. HUD welcomes and is

prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Copies of available documents submitted to OMB may be obtained from Ms. Martin.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Recordkeeping Requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act.

OMB Approval Number: 2506–0121.

Type of Request: Extension of currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: HUD funded projects involving the acquisition of real property or the displacement of persons as a result of acquisition, rehabilitation or demolition are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA).

Respondents: State, local or Tribal government.

Estimated Number of Respondents: 3,278.

Estimated Number of Responses: 3,278.

Frequency of Response: 40.

Average Hours per Response: 60.

Total Estimated Burdens: 196,680.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	3,278	40	3,278	60	196,680	\$18.30	\$3,599,244

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Marion M. McFadden,

Principal Deputy Assistant Secretary for Community Planning and Development.

[FR Doc. 2024–17986 Filed 8–12–24; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service**

[Docket No. FWS-R3-ES-2024-0112;
FXES11140300000-245-FF03E00000]

**Draft Environmental Assessment;
Receipt of an Application for Incidental
Take Permit and Habitat Conservation
Plan for the Edenville Dam Restoration
Project; Gladwin and Midland
Counties, MI**

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Notice of availability; request
for comment and information.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received an application from the Four Lakes Task Force (applicant) for an incidental take permit (ITP) under the Endangered Species Act. If approved, the permit would be for a 30-year period and would authorize the incidental take of one endangered species, the snuffbox mussel. The applicant has prepared the Edenville Dam Restoration Project Habitat Conservation Plan (HCP) to cover activities associated with refilling and maintaining a court-ordered legal lake limit for Wixom Lake, directly upstream of the dam, located in Gladwin and Midland Counties, Michigan. We make available for public comment the applicant's HCP and announce the availability of a draft environmental assessment, which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these documents.

DATES: We will accept comments received or postmarked on or before September 12, 2024.

ADDRESSES:

Obtaining Documents: The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS-R3-ES-2024-0112 at <https://www.regulations.gov>.

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by one of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R3-ES-2024-0112.
- *U.S. mail:* Submit comments by U.S. mail to Public Comments Processing, Attn: Docket No. FWS-R3-

ES-2024-0112; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS: PRB/3W; Falls Church, VA 22041-3803.

FOR FURTHER INFORMATION CONTACT: Scott Hicks, Field Supervisor, Michigan Ecological Services Field Office, by email at scott_hicks@fws.gov, or by telephone at 517-351-2555; or Andrew Horton, Regional HCP Coordinator, by email at andrew_horton@fws.gov, or by telephone at 612-713-5337. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We have received an application from the Four Lakes Task Force (applicant) for a 30-year incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The Four Lakes Task Force was established and became the delegated authority of Secord, Smallwood, Wixom, and Sanford Lakes and their dams (Secord, Smallwood, Edenville, and Sanford) for Midland and Gladwin Counties. The applicant petitioned the circuit courts in Midland and Gladwin Counties to order a lake level for Wixom Lake under part 307 of Michigan Public Act 451 of 1994. The lake level order was issued in June 2019, legally determining both summer (675.2-foot (ft)) and winter (672.2-ft) normal lake levels on Wixom Lake, creating a special assessment district, and designating the applicant as the delegated authority under part 307 to repair, maintain, and operate Edenville Dam and other dams located within the Four Lakes system. The applicant is applying for an ITP for take of the federally endangered snuffbox mussel (*Epioblasma triquetra*) because of this action. The applicant has prepared a habitat conservation plan (HCP) that describes the actions and measures that the applicant would implement to avoid, minimize, and mitigate incidental take of the snuffbox mussel. We also announce the availability of a draft environmental assessment, which has been prepared in response to the permit application in accordance with the requirements of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*).

Background

Section 9 of the ESA and its implementing regulations prohibit the take of animal species listed as

endangered or threatened. "Take" is defined under the ESA as to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect [listed animal species,] or to attempt to engage in such conduct" (16 U.S.C. 1538). However, under section 10(a) of the ESA, we may issue permits to authorize incidental take of listed species. "Incidental take" is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity (16 U.S.C. 1539). Regulations governing incidental take permits for endangered and threatened species, respectively, are found in the Code of Federal Regulations (CFR) at 50 CFR 17.22 and 50 CFR 17.32. Impacts to plants do not fall under the definition of "take"; therefore, the Service cannot authorize incidental take of plants. However, the Service cannot issue an ITP that would jeopardize the continued existence or adversely modify the designated critical habitat of any listed species.

Applicant's Proposed Project

The applicant requests a 30-year ITP for take of the federally endangered snuffbox mussel. The applicant determined that take is reasonably certain to occur incidental to maintaining the legal lake limit of Wixom Lake. This action consists of refilling the 1,908-acre (ac) basin back to court ordered lake limits, which includes the 69.21-ac area where snuffbox impacts are expected to occur. The proposed conservation strategy in the applicant's proposed HCP is designed to avoid, minimize, and mitigate the impacts of seasonal drawdowns that may degrade a portion of available snuffbox habitat. The biological goals and objectives are to maintain or improve water quality, maintain or improve bank stability and bed integrity, maintain or improve suitable aquatic habitat, and maintain hydrology sufficient for long-term persistence of snuffbox. Based on estimated density of mussels discovered during survey, the estimated level of lethal take from the proposed permit term is 84 individuals. To offset the impacts of the taking, the applicant proposes to introduce measures that are anticipated to improve habitat conditions for snuffbox within the permit area. Biological goals and objectives will be adaptively managed and, if necessary, mitigation may be provided outside of the permit area for the covered species.

National Environmental Policy Act

The issuance of an ITP is a Federal action that triggers the need for compliance with NEPA. We prepared a

draft EA that analyzes the environmental impacts on the human environment resulting from three alternatives: a no-action alternative, a dam removal alternative, and the applicant's proposed action.

Next Steps

The Service will evaluate the permit application and the comments received to determine whether the application meets the requirements of section 10(a) of the ESA. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the above findings, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue the requested ITP to the applicant.

Request for Public Comments

The Service invites comments and suggestions from all interested parties on the proposed HCP, draft EA, and supporting documents during a 30-day public comment period (see **DATES**). In particular, information and comments regarding the following topics are requested:

1. The effects that implementation of any alternative could have on the human environment;
2. Whether or not the significance of the impact on various aspects of the human environment has been adequately analyzed;
3. Any threats to the snuffbox mussel that may influence their populations over the life of the ITP that are not addressed in the proposed HCP or EA;
4. Whether the conservation measures outlined in the HCP are sufficient to offset impacts over a 30-year duration; and
5. Any other information pertinent to evaluating the effects of the proposed action on the human environment.

Availability of Public Comments

You may submit comments by one of the methods shown under **ADDRESSES**. We will post on <https://www.regulations.gov> all public comments and information received electronically or via hardcopy. All comments received, including names and addresses, will become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that

we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR parts 1500 through 1508; 43 CFR part 46).

Lori Nordstrom,

Assistant Regional Director, Ecological Services.

[FR Doc. 2024–18028 Filed 8–12–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2024–N044;
FXES11130300000–245–FF03E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before September 12, 2024.

ADDRESSES: *Document availability and comment submission:* Submit requests for copies of the applications and related documents, as well as any comments, by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (e.g., ESXXXXXX; see table in **SUPPLEMENTARY INFORMATION**):

- *Email (preferred method):* permitsR3ES@fws.gov. Please refer to the respective application number (e.g., Application No. ESXXXXXX) in the subject line of your email message.

- *U.S. Mail:* Regional Director, Attn: Nathan Rathbun, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458.

FOR FURTHER INFORMATION CONTACT:

Nathan Rathbun, 612–713–5343 (phone); permitsR3ES@fws.gov (email). Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite review and comment from the public and local, State, Tribal, and Federal agencies on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and the Freedom of Information Act.

Background

The ESA prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

The ESA requires that we invite public comment before issuing permits. Accordingly, we invite local, State,

Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to the applications in table 1. The comments and recommendations that will be most useful and likely to influence agency

decisions are those supported by quantitative information or studies. Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild.

TABLE 1—PERMIT APPLICATIONS RECEIVED

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES04397C	Giorgianna Auteri, Columbus, IN.	Add new species—tri-colored bat (<i>Perimyotis subflavus</i>)—to existing authorized species: Indiana bat (<i>Myotis sodalis</i>), gray bat (<i>M. grisescens</i>), and northern long-eared bat (<i>M. septentrionalis</i>).	AL, AR, CT, DE, DC, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, NC, ND, OK, OH, PA, RI, SC, SD, TN, VT, VA, WV, WI, WY.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Add new activity—harp trap—to existing authorized activities: capture, handle, band, bio-sample, radio-tag, release.	Amend.
ESPER11684859 ...	Natural Power Consultants, LLC., Saratoga Springs, NY.	Indiana bat (<i>Myotis sodalis</i>), northern long-eared bat (<i>M. septentrionalis</i>), and tri-colored bat (<i>Perimyotis subflavus</i>).	CO, CT, DE, DC, FL, IA, KY, LA, ME, MD, MA, MI, MN, MT, NE, NH, NJ, NM, NY, ND, OH, PA, RI, SC, SD, TX, VT, WV, WI, WY.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture with mist nets, handle, radio-tag, release.	New.
ES64081B	Joseph Hoyt, Blacksburg, VA.	Indiana bat (<i>Myotis sodalis</i>) and northern long-eared bat (<i>M. septentrionalis</i>).	Add NY to IL, MI, and WI.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Add mist netting and pit tagging to capture, handle, enter hibernacula, bio sample and release.	Amend.
ES217351	U.S. Forest Service, Nelsonville, OH.	Add new species—tri-colored bat (<i>Perimyotis subflavus</i>)—to existing authorized species: Indiana bat (<i>Myotis sodalis</i>), gray bat (<i>M. grisescens</i>), and northern long-eared bat (<i>M. septentrionalis</i>).	IL, KY, OH	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate impacts.	Capture with mist nets or harp traps, handle, identify, radio-tag, band, collect non-intrusive measurements, collect bio samples, enter hibernacula, and release.	Amend.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Lori Nordstrom,

Assistant Regional Director, Ecological Service, Midwest Region.

[FR Doc. 2024–17939 Filed 8–12–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038477; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: New York State Museum, Albany, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the New York State Museum (NYSM) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects

in this notice may occur on or after September 12, 2024.

ADDRESSES: Lisa Anderson, New York State Museum, 3049 Cultural Education Center, Albany, NY 12230, telephone (518) 486-2020, email lisa.anderson@nysed.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the New York State Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, three individuals have been identified. The 105 associated funerary objects are 82 pottery fragments, 12 triangular projectile points, one projectile point tip, one utilized flake, one flake, one netsinker, one fragment of animal bone, and six soil samples. The human remains and associated funerary objects were removed from the Roundtop site, Broome County, NY, during field school excavations in 1965 and transferred to the NYSM in 1970.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The human remains were removed from the Durfee site, Jefferson County, NY, and donated to the NYSM by Mr. Herbert Bigford.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The human remains were removed from the Grindstone Island site, Jefferson County, NY, during excavations conducted in 1959 by Dr. William A. Ritchie of the NYSM.

Human remains representing, at least, two individuals have been identified. No associated funerary objects are present. The human remains were removed from the Morse's site, Jefferson County, NY, and donated to the NYSM by Mr. Robert D. Loveland in 1912 and Mr. Charles P. Oatman in 1913.

Human remains representing, at least, four individuals have been identified. No associated funerary objects are present. The human remains were removed from the Nohle Farm site, Jefferson County, NY, during gravel mining and transferred to the NYSM in 1975 by the Jefferson County Sheriff's Department.

Human remains representing, at least, four individuals have been identified. No associated funerary objects are present. The human remains were removed from the St. Lawrence site, Jefferson County, NY, and acquired by the NYSM from Mr. R.W. Amidon in 1906.

Human remains representing, at least, two individuals have been identified. No associated funerary objects are present. The human remains were removed from the Talcott Hill site, Jefferson County, NY, and acquired by the NYSM from Mr. J.S. Twining in 1897.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The human remains were removed from the Kelso site, Onondaga County, NY, during excavations conducted in 1958 by Dr. William A. Ritchie of the NYSM.

Human remains representing, at least one individual have been identified. No associated funerary objects are present. The human remains were removed from the Christopher site, Onondaga County, NY, and acquired by the NYSM from Mr. Otis M. Bigelow in 1914.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The human remains were removed from the Pompey site, Onondaga County, NY, and acquired by the NYSM in 1914 from Mr. Otis M. Bigelow.

Human remains representing, at least three individuals have been identified. No associated funerary objects are present. The human remains were removed from Onondaga County, NY, and acquired by the NYSM from Mr. Otis M. Bigelow in 1914.

Human remains representing, at least, four individuals have been identified. No associated funerary objects are present. The human remains were removed from the Robinson site, Onondaga County, during excavations in 1957 by Dr. William A. Ritchie and Mr. Peter Pratt for the NYSM.

Human remains representing, at least, one individual have been identified. The 11 associated funerary objects include one worked deer bone, five ground bear teeth, two deer bone awls, one antler implement, one walrus tusk, and one walrus ivory gouge. The human remains and associated funerary objects were removed from the Plato's Point site, Onondaga County, NY, and acquired by the NYSM in 1899 from Mr. W.G. Hinsdale.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The human remains were removed from Baldwin's Island, Onondaga County,

NY, and acquired by the NYSM in 1899 from Mr. W.G. Hinsdale.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The human remains were removed from possibly the Gates or Weston site in Pompey, Onondaga County, NY, and acquired by the NYSM from Mr. Otis M. Bigelow in 1914.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The human remains were removed from the vicinity of the Seneca River, Onondaga County, NY. There is no record of the acquisition by the NYSM.

Human remains representing, at least, two individuals have been identified. No associated funerary objects are present. The human remains were removed from the vicinity of Van Buren, Onondaga County, NY. There is no record of the acquisition by the NYSM.

Human remains representing, at least, one individual have been identified. The 20 associated funerary objects include seven pottery sherds and 13 fragments of animal bone. The human remains and associated funerary objects were removed from the Jayne LaPoint site, Oswego County, NY, during excavations in the 1980s and transferred to the NYSM in 2011.

Human remains representing, at least, five individuals have been identified. The 185 associated funerary objects include 99 chert flakes, two groundstone tools, five pottery sherds, 72 fragments of animal bone, one mineral sample, one charcoal sample, four nails, and one piece of slag. The human remains and associated funerary objects were removed from the Simmons site, Oswego County, NY, during excavations in 1951 by Dr. William A. Ritchie of the NYSM.

Human remains representing, at least, two individuals have been identified. No associated funerary objects are present. The human remains were removed from the Freidrichsen No. 1 site, Tioga County, NY, during excavations conducted by Dr. Robert E. Funk of the NYSM in 1965.

Human remains representing, at least, four individuals have been identified. No associated funerary objects are present. The human remains were removed from the banks of the Susquehanna River near Oswego, Tioga County, NY, in 1964 after they were exposed by erosion and donated to the NYSM by Mr. G.E. Gordner.

Human remains representing, at least, three individuals have been identified. No associated funerary objects are present. The human remains were removed from the Washington Boro site,

Lancaster County, PA, during excavations in the 1950s and acquired by the NYSM from Mr. Charles Hozinger.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The New York State Museum has determined that:

- The human remains described in this notice represent the physical remains of 48 individuals of Native American ancestry.
- The 321 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Onondaga Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after September 12, 2024. If competing requests for repatriation are received, the New York State Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The New York State Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25

U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 1, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–17978 Filed 8–12–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038471; PPWOCRADNO–PCU00RP14.R50000]

Notice of Inventory Completion Amendment: U.S. Department of the Interior, National Park Service, Yellowstone National Park, Mammoth Hot Springs, WY

AGENCY: National Park Service, Interior.

ACTION: Notice; amendment.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the U.S. Department of the Interior, National Park Service, Yellowstone National Park (YELL) has amended a notice of inventory completion published in the **Federal Register** on November 22, 2006. This notice amends the Indian Tribes or Native Hawaiian organizations with cultural affiliation.

DATES: Repatriation of the human remains may occur on or after September 12, 2024.

ADDRESSES: Cameron Sholly, Superintendent, Yellowstone National Park, P.O. Box 168, Yellowstone National Park, WY 82190, telephone (307) 344–2229, email cam_sholly@nps.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Superintendent, YELL, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records.

Amendment

This notice amends the determination of cultural affiliation in a Notice of Inventory Completion published in the **Federal Register** on November 22, 2006 (71 FR 67635–67636). Repatriation of the human remains in the original notice of inventory completion has not occurred.

Determinations

YELL has determined that:

- There is a connection between the human remains described in the original notice and the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana; Confederated Salish and Kootenai Tribes of the Flathead Reservation; Fort Belknap Indian Community of the Fort Belknap Reservation of Montana; and the Shoshone-Bannock Tribes of the Fort Hall Reservation.

Requests for Repatriation

Written requests for repatriation of the human remains in the original notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains described in the original notice to a requestor may occur on or after September 12, 2024. If competing requests for repatriation are received, YELL must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. YELL is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 1, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–17973 Filed 8–12–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0038482; PPWOCRADNO–PCU00RP14.R50000]

Notice of Intended Repatriation: San Francisco State University NAGPRA Program, San Francisco, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and

Repatriation Act (NAGPRA), the San Francisco State University (SF State) NAGPRA Program intends to repatriate certain cultural items that meet the definition of objects of cultural patrimony and that have a known lineal descendant.

DATES: Repatriation of the cultural items in this notice may occur on or after September 12, 2024.

ADDRESSES: Elise Green, San Francisco State University NAGPRA Program, 1600 Holloway Avenue, San Francisco, CA 94132, telephone (415) 338-1381, email egreen@sfsu.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the SF State NAGPRA Program and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of two cultural items have been requested for repatriation. The two objects of cultural patrimony are a grass bundle coiled bowl and a large grass bundle coiled bowl basket. These two baskets were donated to the Treganza Anthropology Museum (TAM) at San Francisco State University in the 1960s and 1970s. When the TAM closed in 2012, all the Native American items were transferred to the SF State NAGPRA Program. Both baskets are from the Southwest Collection and there are no records of the donors at SF State.

It was once common practice by museums to use chemicals on cultural items to prevent deterioration by mold, insects, and moisture. To date, the SF State NAGPRA Program has no records documenting use of chemicals at our facilities, and we currently do not use chemicals on any cultural items. A former SF State professor, Dr. Michael Moratto, stated that staff used glues, polyvinyl acetate, and a solution called Glyptol to mend and stabilize cultural objects in the past. Prior non-invasive and non-destructive hazardous chemical tests conducted at the SF State NAGPRA Program repositories show arsenic, mercury, and/or lead in some storage containers, surfaces, and certain cultural items.

Determinations

The SF State NAGPRA Program has determined that:

- The two objects of cultural patrimony described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.

- A known lineal descendant of the Havasupai Tribe of the Havasupai Reservation, Arizona (name withheld per request) is connected to the cultural items described in this notice.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after September 12, 2024. If competing requests for repatriation are received, the SF State NAGPRA Program must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The SF State NAGPRA Program is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 1, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-17983 Filed 8-12-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

**[NPS-WASO-NAGPRA-NPS0038481;
PPWOCRADNO-PCU00RP14.R50000]**

Notice of Intended Repatriation: Ohio History Connection, Columbus, OH

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Ohio History Connection intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 12, 2024.

ADDRESSES: Nekole Alligood, NAGPRA Specialist, Ohio History Connection, 800 E 17th Avenue, Columbus, OH 43211, telephone (405) 933-7643, email nalligood@ohiohistory.org.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the Ohio History Connection, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 43 cultural items have been requested for repatriation. The 43 unassociated funerary objects are one armlet, 13 beads, two bracelets, 21 brooches, two crosses, one gorget, and three tinkler/pendants. These belongings were purchased by the Ohio State Archaeological and Historical Society (now Ohio History Connection) from Mrs. Helen Cropper on January 31, 1958. They were from a burial on Audubon Island (also referred to as Burial Island or Ewing Island), in Lucas County, Ohio.

Determinations

The Ohio History Connection has determined that:

- The 43 unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or

individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- There is a reasonable connection between the cultural items described in this notice and the Absentee-Shawnee Tribe of Indians of Oklahoma; Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Cayuga Nation; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana; Citizen Potawatomi Nation, Oklahoma; Delaware Nation, Oklahoma; Delaware Tribe of Indians; Eastern Shawnee Tribe of Oklahoma; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Kaw Nation, Oklahoma; Keweenaw Bay Indian Community, Michigan; Kickapoo Traditional Tribe of Texas; Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas; Kickapoo Tribe of Oklahoma; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Little Shell Tribe of Chippewa Indians of Montana; Little Traverse Bay Bands of Odawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Miami Tribe of Oklahoma; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Nottawaseppi Huron Band of the Potawatomi, Michigan; Omaha Tribe of Nebraska; Oneida Indian Nation; Oneida Nation; Onondaga Nation; Ottawa Tribe of Oklahoma; Peoria Tribe of Indians of Oklahoma; Pokagon Band of Potawatomi Indians, Michigan and Indiana; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Prairie Band Potawatomi Nation; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sac & Fox Nation, Oklahoma; Sac & Fox Tribe of the Mississippi in Iowa; Saginaw Chippewa Indian Tribe of Michigan; Saint Regis Mohawk Tribe; Sault Ste. Marie Tribe of Chippewa Indians, Michigan; Seneca Nation of Indians; Seneca-Cayuga Nation; Shawnee Tribe; Sokaogon Chippewa Community, Wisconsin; St. Croix

Chippewa Indians of Wisconsin; Tonawanda Band of Seneca; Turtle Mountain Band of Chippewa Indians of North Dakota; Tuscarora Nation; and the Wyandotte Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after September 12, 2024. If competing requests for repatriation are received, the Ohio History Connection must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The Ohio History Connection is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 1, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-17982 Filed 8-12-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038478; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: New York State Museum, Albany, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the New York State Museum intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 12, 2024.

ADDRESSES: Lisa Anderson, New York State Museum, 3049 Cultural Education Center, Albany, NY 12230, telephone (518) 486-2020, email lisa.anderson@nysed.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the New York State Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of two cultural items have been requested for repatriation. The two unassociated funerary objects are one pottery pipe from the Treadway site, Jefferson County, NY, acquired from Mr. R.D. Loveland in 1912; and one mica sheet from the Plato's Point site, Onondaga County, NY, acquired from the Farmer's Museum, Cooperstown, NY, in 1953.

Determinations

The New York State Museum has determined that:

- The two unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- There is a reasonable connection between the cultural items described in this notice and the Onondaga Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any

lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after September 12, 2024. If competing requests for repatriation are received, the New York State Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The New York State Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 1, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-17979 Filed 8-12-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038479;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: New York State Museum, Albany, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the New York State Museum (NYSM) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after September 12, 2024.

ADDRESSES: Lisa Anderson, New York State Museum, 3049 Cultural Education Center, Albany, NY 12230, telephone (518) 486-2020, email lisa.anderson@nysed.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative

responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the New York State Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Human remains representing, at least, seven individuals have been identified. The 310 associated funerary objects are 243 Meadowood cache blades, one projectile point, two projectile point fragments, one biface, two biface fragments, two side-notched projectile points, 10 stone scrapers, 26 chert flakes, four quartz crystals, four stone gorget fragments, one groundstone tool, one groundstone fragment, one fire-cracked rock, four hematite samples, two beaver incisors, two antler fragments, one turtle shell fragment, one charcoal sample, and two soil samples. The human remains and associated funerary objects were removed from the Hunter site, Jefferson County, NY, during excavations conducted in 1952 by Dr. William A. Ritchie of the NYSM.

Human remains representing, at least, seven individuals have been identified. The 253 associated funerary objects include one copper flaking tool with carved wooden handle, 226 Meadowood-type cache blades, one chert drill, one chert tool, two groundstone celts, two groundstone tools, one piece of fire-cracked rock, four hematite samples, four chert flakes, one wood fragment, three calcined bone fragments, one Meadowood-type projectile point, one projectile point tip, two biface fragments, two chert scrapers, and one utilized chert flake. The human remains and associated funerary objects were removed from the Muskalonge Lake site, Jefferson County, NY, during excavations conducted in 1951 and 1952 by Dr. William A. Ritchie of the NYSM.

Human remains representing, at least, two individuals have been identified. No associated funerary objects are present. The human remains were removed from Jefferson County, NY, and acquired by the NYSM by Mr. Robert D. Loveland in 1912.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The human remains were removed from Jefferson County, NY, and acquired by the NYSM by Mr. Charles P. Oatman in 1913.

Human remains representing, at least, four individuals have been identified.

No associated funerary objects are present. The human remains were removed from Jefferson County, NY. NYSM has no record of the acquisition.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The human remains were removed from the Colligan site, Jefferson County, NY, and acquired by the NYSM from Mr. R.D. Loveland in 1912.

Human remains representing, at least, one individual have been identified. No associated funerary objects are present. The human remains were removed from the vicinity of Rutland, Jefferson County, NY, and acquired by NYSM in 1897 from Mr. J.S. Twining.

Human remains representing, at least one individual have been identified. No associated funerary objects are present. The human remains were removed from the Atwell Fort site, Madison County, NY, and acquired by the NYSM from Mr. Otis M. Bigelow in 1914.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains and associated funerary objects described in this notice.

Determinations

The New York State Museum has determined that:

- The human remains described in this notice represent the physical remains of 24 individuals of Native American ancestry.
- The 563 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Oneida Indian Nation and the Onondaga Nation.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or

an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after September 12, 2024. If competing requests for repatriation are received, the New York State Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The New York State Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 1, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-17980 Filed 8-12-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038476;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: San Diego State University, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), San Diego State University (SDSU) has completed an inventory of human remains and has determined that there is a cultural affiliation between the human remains and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after September 12, 2024.

ADDRESSES: Jaime Lennox, San Diego State University, 5500 Campanile Drive, San Diego, CA 92182, telephone (619) 594-4575, email jlennox@sdsu.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of SDSU, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The

National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing, at least, one individual have been reasonably identified. No associated funerary objects are present. Site SDI-38 (San Diego Presidio) is located in San Diego County, CA and was excavated by SDSU in 1965-1975. SDSU received the individual in 1973; the individual was later accessioned as BIOANTH-002 in 2021 for NAGPRA-related reporting purposes. For unknown reasons, the individual was not accessioned with the cultural items and other individuals removed from the site (accessioned into SDSU's assemblage as CMP-SDSU-0400). Landscaping activities had previously taken place throughout the site including the use of nitrates, traces of which may be present with the individual.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the human remains described in this notice.

Determinations

SDSU has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a reasonable connection between the human remains described in this notice and the Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Capitan Grande Band of Diegueno Mission Indians of California (Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California); Ewiiapaayp Band of Kumeyaay Indians, California; Lipay Nation of Santa Ysabel, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; and the Sycuan Band of the Kumeyaay Nation.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under

ADDRESSES. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains in this notice to a requestor may occur on or after September 12, 2024. If competing requests for repatriation are received, SDSU must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains are considered a single request and not competing requests. SDSU is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 1, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-17977 Filed 8-12-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038473;
PPWOCRADN0-PCU00RP14.R50000]

Notice of Inventory Completion: University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the University of California, Berkeley has completed an inventory of associated funerary objects and has determined that there is a cultural affiliation between the associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the associated funerary objects in this notice may occur on or after September 12, 2024.

ADDRESSES: Alexandra Lucas, Government and Community Relations, Office of the Chancellor, University of California, Berkeley, 200 California Hall, Berkeley, CA 94720, telephone (510) 570-0964, email nagpra-ucb@berkeley.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the University of California, Berkeley, and additional information on the determinations in this notice, including the results of consultation, can be found in its inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

In October 1948, Albert Mohr and David Allen Fredrickson removed 17 lots of associated funerary objects from CA-GLE-1, CA-GLE-2, CA-GLE-5, CA-GLE-6, CA-GLE-7, CA-GLE-9, CA-GLE-10, and CA-GLE-11 in Glenn County, CA. The University of California Museum of Anthropology (today the Phoebe A. Hearst Museum of Anthropology) appropriated the 17 lots of associated funerary objects from the University of California Archaeological Survey in October 1948. The associated funerary objects are worked stone and stone fragments.

Collections and collection spaces at the Phoebe A Hearst Museum of Anthropology were treated with substances for preservation and pest control, some potentially hazardous. No records have been found to date at the Museum to indicate whether or not chemicals or natural substances were used prior to 1960.

Cultural Affiliation

Based on the information available and the results of consultation, cultural affiliation is reasonably identified by the geographical location or acquisition history of the associated funerary objects described in this notice.

Determinations

The University of California, Berkeley has determined that:

- The 17 objects described in this notice are reasonably believed to have been placed intentionally with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a connection between the human remains and associated funerary objects described in this notice and the Grindstone Indian Rancheria of Wintun-Wailaki Indians of California and the

Paskenta Band of Nomlaki Indians of California.

Requests for Repatriation

Written requests for repatriation of the associated funerary objects in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or an Indian Tribe or Native Hawaiian organization with cultural affiliation.

Repatriation of the associated funerary objects described in this notice to a requestor may occur on or after September 12, 2024. If competing requests for repatriation are received, the University of California, Berkeley must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the associated funerary objects are considered a single request and not competing requests. The University of California, Berkeley is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 1, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-17975 Filed 8-12-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038480; PPWOCRADN0-PCU00RP14.R50000]

Notice of Intended Repatriation: New York State Museum, Albany, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the New York State Museum intends to repatriate certain cultural items that meet the definition of unassociated funerary objects and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 12, 2024.

ADDRESSES: Lisa Anderson, New York State Museum, 3049 Cultural Education Center, Albany, NY 12230, telephone (518) 486-2020, email lisa.anderson@nysed.gov.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the New York State Museum, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 12 cultural items have been requested for repatriation. The 12 unassociated funerary objects are seven pottery sherds, one cache blade, two end scrapers, and one projectile point from the Hunter site, Jefferson County, NY, acquired through excavations by Dr. William A. Ritchie of the NYSM in 1952; and one sample of carbonized corn from Jefferson County, NY, and acquired from Mr. Alvin H. Dewey in 1918.

Determinations

The New York State Museum has determined that:

- The 12 unassociated funerary objects described in this notice are reasonably believed to have been placed intentionally with or near human remains, and are connected, either at the time of death or later as part of the death rite or ceremony of a Native American culture according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization. The unassociated funerary objects have been identified by a preponderance of the evidence as related to human remains, specific individuals, or families, or removed from a specific burial site or burial area of an individual or individuals with cultural affiliation to an Indian Tribe or Native Hawaiian organization.

- There is a reasonable connection between the cultural items described in this notice and the Oneida Indian Nation and the Onondaga Nation.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized

representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after September 12, 2024. If competing requests for repatriation are received, the New York State Museum must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural items are considered a single request and not competing requests. The New York State Museum is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 1, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-17981 Filed 8-12-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038472;
PPWOCRADNO-PCU00RP14.R50000]

Notice of Inventory Completion: Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Peabody Museum of Archaeology and Ethnology, Harvard University (PMAE) has completed an inventory of human remains and has determined that there are known lineal descendants connected to the human remains in this notice.

DATES: Repatriation of the human remains in this notice may occur on or after September 12, 2024.

ADDRESSES: Jane Pickering, Peabody Museum of Archaeology and Ethnology, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496-2374, email jpickering@fas.harvard.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the PMAE, and additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

Based on the information available, human remains representing one individual has been reasonably identified. The human remains were collected at the Sherman Institute, Riverside County, CA and are hair clippings collected from one individual, Naomi Walker, who was recorded as being 19 years old and identified as "Walapai." Samuel Gilliam took the hair clippings at the Sherman Institute between 1930 and 1933. Gilliam sent the hair clippings to George Woodbury, who donated the hair clippings to the PMAE in 1935. No associated funerary objects are present.

Lineal Descendant

Based on the information available and the results of consultation, a lineal descendant is connected to the human remains described in this notice.

Determinations

The PMAE has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Jason W. Davis is connected to the human remains described in this notice.

Requests for Repatriation

Written requests for repatriation of the human remains in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by:

1. The known lineal descendant connected to the human remains.
2. Any other lineal descendant not identified who shows, by a preponderance of the evidence, that the requestor is a lineal descendant.

Repatriation of the human remains in this notice to a requestor may occur on or after September 12, 2024. If competing requests for repatriation are received, the PMAE must determine the most appropriate requestor prior to repatriation. The PMAE is responsible for sending a copy of this notice to the lineal descendant and any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.10.

Dated: August 1, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024-17974 Filed 8-12-24; 8:45 am]

BILLING CODE 4312-52-P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS-WASO-NAGPRA-NPS0038475;
PPWOCRADNO-PCU00RP14.R50000]

Notice of Intended Repatriation: Portland State University, Portland, OR

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), Portland State University intends to repatriate certain cultural items that meet the definition of sacred objects or objects of cultural patrimony and that have a cultural affiliation with the Indian Tribes or Native Hawaiian organizations in this notice.

DATES: Repatriation of the cultural items in this notice may occur on or after September 12, 2024.

ADDRESSES: Reno Nims, Portland State University, Research & Graduate Studies, P.O. Box 751, Portland, OR 97207, telephone (503) 725-6611, email nagpra@pdx.edu.

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of Portland State University, and additional information on the determinations in this notice, including the results of consultation, can be found in the summary or related records. The National Park Service is not responsible for the determinations in this notice.

Abstract of Information Available

A total of 71 cultural items have been requested for repatriation. The 63 sacred objects are stone projectile points and stone flakes that were removed from Cascadia Cave (35-LIN-11) in Linn County, OR in 1964 by PSU under the direction of Thomas Newman, a faculty member in the Anthropology Department. These cultural items were identified as sacred objects during NAGPRA Summary consultations in 2023.

The eight objects of cultural patrimony are bone and antler tools that were removed from 35–TI–104, an archaeological site on Bayocean Peninsula in Tillamook County, OR in 1970 by Ron Kent, a PSU master's student in the Anthropology Department. These cultural items were inadvertently excavated from deposits of faunal remains, and subsequently identified as objects of cultural patrimony during NAGPRA Summary consultations in 2022.

Determinations

Portland State University has determined that:

- The 63 sacred objects described in this notice are specific ceremonial objects needed by a traditional Native American religious leader for present-day adherents to practice traditional Native American religion, according to the Native American traditional knowledge of a lineal descendant, Indian Tribe, or Native Hawaiian organization.

- The eight objects of cultural patrimony described in this notice have ongoing historical, traditional, or cultural importance central to the Native American group, including any constituent sub-group (such as a band, clan, lineage, ceremonial society, or other subdivision), according to the Native American traditional knowledge of an Indian Tribe or Native Hawaiian organization.

- There is a reasonable connection between the cultural items described in this notice and the Confederated Tribes of Siletz Indians of Oregon; Confederated Tribes of the Grand Ronde Community of Oregon; and the Confederated Tribes of the Warm Springs Reservation of Oregon.

Requests for Repatriation

Additional, written requests for repatriation of the cultural items in this notice must be sent to the authorized representative identified in this notice under **ADDRESSES**. Requests for repatriation may be submitted by any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the cultural items in this notice to a requestor may occur on or after September 12, 2024. If competing requests for repatriation are received, Portland State University must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the cultural

items are considered a single request and not competing requests. Portland State University is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice and to any other consulting parties.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3004 and the implementing regulations, 43 CFR 10.9.

Dated: August 1, 2024.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2024–17976 Filed 8–12–24; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1412]

Certain NAND Memory Devices and Electronic Devices Containing Same; Notice of Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 8, 2024, under section 337 of the Tariff Act of 1930, as amended, on behalf of MimirIP LLC of Dallas, Texas. A supplement to the Complaint was filed on July 26, 2024. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain NAND memory devices and electronic devices containing same by reason of the infringement of certain claims of U.S. Patent No. 8,637,919 (“the ‘919 patent”); U.S. Patent No. 9,245,962 (“the ‘962 patent”); and U.S. Patent No. 10,896,918 (“the ‘918 patent”). The complaint, as supplemented, further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. Hearing impaired individuals are advised that information on this matter can be obtained by

contacting the Commission’s TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at <https://www.usitc.gov>.

FOR FURTHER INFORMATION CONTACT:

Pathenia M. Proctor, The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10 (2024).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on August 7, 2024, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1, 4, 5, 7, 10, 11, and 13 of the ‘919 patent; claims 1–7, 11–16, 20, and 22 of the ‘962 patent; and claims 1–3, 7, 8, 10, and 13–15 of the ‘918 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission’s Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is “NAND memory; and smart devices, augmented and virtual reality products, gaming devices, computers, laptops, desktops, workstations, tablets, servers, SSDs, USB and flash drives, portable storage devices, and memory cards containing the same”;

(3) Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the presiding administrative law judge shall take evidence or other information and hear arguments from the parties or other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this

issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1);

(4) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) *The complainant is:* MimirIP LLC, 9330 LBJ Freeway, Suite 900, Dallas, TX

(b) *The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:*

Micron Technology Inc., 6360 South Federal Way, Post Office Box 6, Boise ID 83716

Acer Inc., 8F., No. 88, Sec. 1, Xintai 5th Rd., Xizhi Dist., New Taipei City 221, Taiwan

Acer America Corp., 1730 North First Street, Suite 400, San Jose, CA 95112
HP, Inc., 1501 Page Mill Road, Palo Alto, CA 94304

Kingston Technology Company, Inc., 17600 Newhope Street, Fountain Valley, CA 92708

Lenovo Group Limited, 23rd Floor, Lincoln House, Taikoo Place, 979 King's Road, Quarry Bay, Hong Kong, S.A.R. of China

Lenovo (United States) Inc., 8001 Development Drive, Morrisville, NC 27560

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW, Suite 401, Washington, DC 20436; and

(5) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the

administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: August 8, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024-18021 Filed 8-12-24; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-593-596 and 731-TA-1401-1406 (Review)]

Large Diameter Welded Pipe From Canada, China, Greece, India, South Korea, and Turkey; Scheduling of Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to the Tariff Act of 1930 ("the Act") to determine whether revocation of the antidumping duty and countervailing duty orders on large diameter welded pipe from Canada, China, Greece, India, South Korea, and Turkey would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days.

DATES: November 4, 2024.

FOR FURTHER INFORMATION CONTACT:

Lawrence Jones (202) 205-3358, 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 reviews may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background.—On May 6, 2024, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews should proceed (89 FR 46160, May 28, 2024); accordingly, full reviews are being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's website.

Participation in these reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in this review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in these reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the review. A party granted access to BPI following publication of the Commission's notice

of institution of these reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in these reviews will be placed in the nonpublic record on February 4, 2025, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold an in-person hearing in connection with these reviews beginning at 9:30 a.m. on February 25, 2025. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before 5:15 p.m. on February 18, 2025. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the review, may in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID-19 test result may be submitted by 3:00 p.m. the business day prior to the hearing. Further information about participation in the hearing will be posted on the Commission's website at <https://www.usitc.gov/calendarpad/calendar.html>.

A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference, if deemed necessary, to be held at 9:30 a.m. on February 24, 2025. Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than 4:00 p.m. on February 24, 2025. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to these reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is 5:15 p.m. on February 13, 2025. Parties shall also file written testimony in connection with their presentation at the hearing,

and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is 5:15 p.m. on March 6, 2025. In addition, any person who has not entered an appearance as a party to the review may submit a written statement of information pertinent to the subject of these reviews on or before 5:15 p.m. on March 6, 2025. On April 2, 2025, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before 5:15 p.m. on April 4, 2025, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures*, available on the Commission's website at https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf, elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to these reviews must be served on all other parties to these reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

The Commission has determined that these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C.1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: August 8, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–18022 Filed 8–12–24; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–694 and 731–TA–1641–1642 (Final)]

Aluminum Lithographic Printing Plates From China and Japan; Revised Schedule for the Subject Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

DATES: August 5, 2024.

FOR FURTHER INFORMATION CONTACT:

Celia Feldpausch (202–205–2387), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (<https://www.usitc.gov>). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION: Effective May 1, 2024, the Commission established a schedule for the conduct of the final phase of the subject investigations (89 FR 41993, May 14, 2024) following preliminary affirmative countervailing duty and sales-at-less-than-fair-value determinations by the U.S. Department of Commerce (“Commerce”) with respect to aluminum lithographic printing plates (“ALPs”) from China and Japan (89 FR 15134, March 1, 2024; 89 FR 35062 and 89 FR 35065, May 1, 2024). Subsequently, Commerce issued a memorandum tolling certain statutory and regulatory deadlines by a total of seven days (Memorandum to the Record, Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings, July 22, 2024). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's revised dates in the schedule are as follows. The

prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on September 3, 2024, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules. The deadline for filing prehearing briefs is 5:15 p.m. on September 10, 2024; if a brief contains business proprietary information, a nonbusiness proprietary version is due the following business day. The prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 13, 2024, if deemed necessary. Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than 4:00 p.m. on September 16, 2024. The hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on September 17, 2024. The deadline for filing posthearing briefs is September 26, 2024. Any person who has not entered an appearance as a party to these investigations may submit a written statement of information pertinent to the subject of these investigations, including statements of support or opposition to the petitions, on or before September 26, 2024. On October 15, 2024, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before October 17, 2024. The deadline for filing appearances is 21 days before the hearing.

For further information concerning this proceeding, 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: August 8, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024-18019 Filed 8-12-24; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

[OMB Number 1121-NEW1]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New; Juvenile Facility Census Program (JFCP)

AGENCY: Office of Justice Programs, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The National Institute of Justice, Office of Justice Programs (OJP), Department of Justice (DOJ), will be submitting the following 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).

DATES: Comments are encouraged and will be accepted for 30 days until September 12, 2024.

FOR FURTHER INFORMATION CONTACT: If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact: Benjamin Adams, Supervisory Social Science Analyst, National Institute of Justice, 810 Seventh Street NW, Washington, DC 20531 (email: benjamin.adams@usdoj.gov; telephone: 202-616-3687).

SUPPLEMENTARY INFORMATION: The proposed information collection was previously published in the **Federal Register** on May 21, 2024, allowing a 60-day comment period (89 FR 44709). Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and/or
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms

of information technology, e.g., permitting electronic submission of responses.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the information collection or the OMB Control Number [1121-NEW1]. This information collection request may be viewed at www.reginfo.gov. Follow the instructions to view Department of Justice, information collections currently under review by OMB.

DOJ seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOJ notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Overview of This Information Collection

1. *Type of Information Collection:* New.
2. *Title of the Form/Collection:* Juvenile Facility Census Program (JFCP).
3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* The form numbers are CJ-14 (CJRP) and CJ-15 (JRFC). The applicable components within the Department of Justice are the National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention, in the Office of Justice Programs.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* State, local and tribal governments, individuals or households, and Private Sector-for or not for profit institutions.

Abstract: This request for clearance of the Juvenile Facility Census Program (JFCP) will combine two previously, separately cleared data collections: the Census of Juveniles in Residential Placement (OMB # 1121-0218) and the Juvenile Residential Facility Census (OMB # 1121-0219). The Census of Juveniles in Residential Placement (CJRP), which is administered biennially, collects information from all secure and nonsecure residential placement facilities that house persons younger than age 21 who are held in a residential setting as a result of some

contact with the juvenile justice system for an offense. This encompasses both status offenses and delinquency offenses, and includes youth who are either temporarily detained by the court or committed after adjudication for an offense. The CJRP collects information on the characteristics of the youth held for an offense, including offense and demographics, and information on their placement, including adjudication status and length of stay. The Juvenile Residential Facility Census (JRFC), which is administered biennially in the years the CJRP is not administered, collects information about how juvenile facilities operate, the services they provide, and staff training from all secure and nonsecure residential placement facilities that house persons younger than 21 who are held for an offense. The information gathered in these national collections will be used in published reports and statistics. The reports will be made available to the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, others interested in juvenile residential facilities, and the general public via the OJP agency websites. The two data collections are being combined into a single clearance packet because they are closely related and designed to be complementary. They are drawn from the same frame, are administered to the same respondents with identical eligibility criteria, have the same reference day, and use the same mode of collection. The collection administrations are deliberately sequenced and scheduled for alternating years because of the complementary nature of the information and overlap in respondents. Additionally, each collections' imputation procedures rely upon information from the other collection, and for some longitudinal analyses, data from both collections are combined to produce published statistics.

5. *Obligation to Respond*: Voluntary.

6. *Total Estimated Number of Respondents*: The total estimated respondents is 1,569 for each collection for each year.

7. *Estimated Time per Respondent*: It takes an average of 4 hours to complete the CJRP. The total burden for the CJRP is 6,844 hours. It takes an average of 2 hours to complete the JRFC. The total burden for the JRFC is 3,422 hours.

8. *Frequency*: The CJRP and JRFC are each administered biennially in alternating years.

9. *Total Estimated Annual Time Burden*: The average annual burden is 5,703 hours or 17,110 total hours for the 2025 CJRP, 2026 JRFC, and 2027 CJRP.

10. *Total Estimated Annual Other Costs Burden*: The estimated annual cost for CJRP and JRFC is \$633,054 each. The estimated cost for both collections is \$1,266,108 annually.

If additional information is required, contact: Darwin Arceo, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street NE, 4W-218, Washington, DC 20530.

Dated: August 8, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024-18011 Filed 8-12-24; 8:45 am]

BILLING CODE 4410-23-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On August 6, 2024, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Columbia in the lawsuit entitled *United States v. Lawrence N. Brandt, Inc., Glenbrook Limited Partnership, and American University* (Civil Action No. 1:24-CV-02303).

The proposed Consent Decree resolves claims set forth in the Complaint against Lawrence N. Brandt, Inc., Glenbrook Limited Partnership, and American University for recovery of costs pursuant to Sections 107(a) and 113 of CERCLA, 42 U.S.C. 9607 and 9613, and related to the 4825 Glenbrook Road Spring Valley Formerly Used Defense Site (FUDS). The Site is a residential parcel that previously included a single-family, detached home, located in the Spring Valley residential community in northwest Washington, DC. During World War I, American University offered the United States Government the use of its campus to support the war effort against Germany. Between 1917 and 1920, the United States Government subsequently used portions of the American University campus to conduct the research and development of chemical warfare material (CWM), including mustard and lewisite agents. Some of the CWM-related material was buried at various locations within the Spring Valley FUDS, including the 4825 Glenbrook Road property (which was later developed by Lawrence N. Brandt, Inc. and Glenbrook Limited Partnership). As a result, the United

States also is a responsible party in this case.

Under the proposed settlement, American University will pay \$4 million, and Lawrence N. Brandt, Inc. and Glenbrook Limited Partnership will pay \$750,000 in reimbursement for their share of response costs related to the Site. In return, the United States agrees not to sue Defendants under section 107(a) of CERCLA for certain response costs related to the Site, and Defendants likewise agree not to sue the United States with respect to certain response costs. Because the U.S. Army Corps of Engineers handles all remediation work related to the Spring Valley cleanup, no response work is required of the Defendants under the Consent Decree.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Lawrence N. Brandt, Inc., Glenbrook Limited Partnership, and American University* (Civil Action No. 1:24-CV-02303) and D.J. Ref. No. 90-11-3-12095. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Any comments submitted in writing may be filed in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. If you require assistance accessing the Consent Decree, you may request assistance by email or by mail to the address provided above for submitting comments.

Jason Dunn,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division;

[FR Doc. 2024-17944 Filed 8-12-24; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF LABOR**Agency Information Collection Activities; Submission for OMB Review; Comment Request; Forging Machines**

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety & Health Administration (OSHA)-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 September 12, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: Employers must establish periodic inspections of forging machines, guards, and point-of-operation protection devices and to mark manually controlled valves and switches. These requirements reduce workers’ risks of death or serious injury by ensuring that forging machines used by them are in safe operating condition, and that they are able to identify manually operated valves and switches. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 12, 2024 (89 FR 25902).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency’s estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of

automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Forging Machines.

OMB Control Number: 1218–0228.

Affected Public: Private Sector—

Businesses or other for-profits.

Total Estimated Number of Respondents: 27,700.

Total Estimated Number of Responses: 1,440,400.

Total Estimated Annual Time Burden: 384,107 hours.

Total Estimated Annual Other Costs Burden: \$0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–17462 Filed 8–9–24; 11:15 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR**Agency Information Collection Activities; Submission for OMB Review; Comment Request; Ionizing Radiation Standard**

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety & Health Administration (OSHA)-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 September 12, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at DOL_PRA_PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: The purpose of the Ionizing Radiation Standard and its information collection requirements are to document that employers are providing their workers with protection from hazardous ionizing radiation exposure. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 6, 2024 (89 FR 37264).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency’s estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Ionizing Radiation Standard.

OMB Control Number: 1218–0103.
Affected Public: Private Sector—
Businesses or other for-profits.
Total Estimated Number of
Respondents: 25,631.
Total Estimated Number of
Responses: 395,705.
Total Estimated Annual Time Burden:
70,556 hours.
Total Estimated Annual Other Costs
Burden: \$11,461,149.
(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,
Senior Paperwork Reduction Act Analyst.
[FR Doc. 2024–17970 Filed 8–12–24; 8:45 am]
BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Underground Construction Standard

ACTION: Notice of availability; request
for comments.

SUMMARY: The Department of Labor
(DOL) is submitting this Occupational
Safety & Health Administration (OSHA)-
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 September 12,
2024.

ADDRESSES: Written comments and
recommendations for the proposed
information collection should be sent
within 30 days of publication of this
notice to www.reginfo.gov/public/do/PRAMain. Find this particular
information collection by selecting
“Currently under 30-day Review—Open
for Public Comments” or by using the
search function.

FOR FURTHER INFORMATION CONTACT:
Nicole Bouchet by telephone at 202–
693–0213, or by email at [DOL_PRA_](mailto:DOL_PRA_PUBLIC@dol.gov)
PUBLIC@dol.gov.

SUPPLEMENTARY INFORMATION: The
information collection requests
contained in the Standard requires
employers to post warning signs and
notices, certify inspection records for
hoists, and maintain records of air
quality tests. For additional substantive
information about this ICR, see the
related notice published in the **Federal
Register** on May 8, 2024 (89 FR 38919).

Comments are invited on: (1) whether
the collection of information is

necessary for the proper performance of
the functions of the Department,
including whether the information will
have practical utility; (2) the accuracy of
the agency’s estimates of the burden and
cost of the collection of information,
including the validity of the
methodology and assumptions used; (3)
ways to enhance the quality, utility and
clarity of the information collection; and
(4) ways to minimize the burden of the
collection of information on those who
are to respond, including the use of
automated collection techniques or
other forms of information technology.

This information collection is subject
to the PRA. A Federal agency generally
cannot conduct or sponsor a collection
of information, and the public is
generally not required to respond to an
information collection, unless the OMB
approves it and displays a currently
valid OMB Control Number. In addition,
notwithstanding any other provisions of
law, no person shall generally be subject
to penalty for failing to comply with a
collection of information that does not
display a valid OMB Control Number.
See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this
information collection for three (3)
years. OMB authorization for an ICR
cannot be for more than three (3) years
without renewal. The DOL notes that
information collection requirements
submitted to the OMB for existing ICRs
receive a month-to-month extension
while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Underground
Construction Standard.

OMB Control Number: 1218–0067.

Affected Public: Private Sector—
Businesses or other for-profits.

Total Estimated Number of
Respondents: 461.

Total Estimated Number of
Responses: 1,172,939.

Total Estimated Annual Time Burden:
77,618 hours.

Total Estimated Annual Other Costs
Burden: \$165,600.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,
Senior Paperwork Reduction Act Analyst.
[FR Doc. 2024–17971 Filed 8–12–24; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0060]

Methylene Chloride Standard; Extension of the Office of Management and Budget’s (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health
Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public
comments concerning the proposal to
extend the Office of Management and
Budget’s (OMB) approval of the
information collection requirements
specified in Methylene Chloride
Standard.

DATES: Comments must be submitted
(postmarked, sent, or received) by
October 15, 2024.

ADDRESSES:

Electronically: You may submit
comments and attachments
electronically at [https://](https://www.regulations.gov)
www.regulations.gov, which is the
Federal eRulemaking Portal. Follow the
instructions online for submitting
comments.

Docket: To read or download
comments or other material in the
docket, go to [https://](https://www.regulations.gov)
www.regulations.gov. Documents in the
docket are listed in the [https://](https://www.regulations.gov)
www.regulations.gov index; however,
some information (e.g., copyrighted
material) is not publicly available to
read or download through the websites.
All submissions, including copyrighted
material, are available for inspection
through the OSHA Docket Office.
Contact the OSHA Docket Office at (202)
693–2350 (TTY (877) 889–5627) for
assistance in locating docket
submissions.

Instructions: All submissions must
include the agency name and OSHA
docket number (OSHA–2011–0060) for
the Information Collection Request
(ICR). OSHA will place all comments,
including any personal information, in
the public docket, which may be made
available online. Therefore, OSHA
cautions interested parties about
submitting personal information such as
Social Security numbers and birthdates.

For further information on submitting
comments, see the “Public
Participation” heading in the section of
this notice titled **SUPPLEMENTARY
INFORMATION**.

FOR FURTHER INFORMATION CONTACT:
Seleda Perryman, Directorate of

Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693-2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The following sections describe who uses the information collected under each requirement, as well as how they use it.

The Standard protects workers from the adverse health effects that may result from their exposure to methylene chloride (MC). The requirements in the Standard include worker exposure monitoring, notifying workers of their MC exposures, administering medical examinations to workers, providing examining physicians with specific program and worker information, ensuring that workers receive a copy of their medical examination results, maintaining workers' exposure monitoring and medical examination records for specific periods, and providing access to these records by OSHA, the National Institute for Occupational Safety and Health, the affected workers, and their authorized representatives.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary

for the proper performance of the agency's functions to protect workers, including whether the information is useful;

- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information, and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the information collection requirements contained in the Methylene Chloride Standard. The agency is requesting an adjustment increase in the burden hours amount from 61,813 hours to 65,555 hours, a difference of 3,742 hours. This increase is due increase in the number of establishments from 84,595 to 89,760.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: Methylene Chloride Standard.

OMB Control Number: 1218-0179.

Affected Public: Business or other for-profits.

Number of Respondents: 89,760.

Number of Responses: 251,235.

Frequency of Responses: Varies.

Average Time per Response: Varies.

Estimated Total Burden Hours: 65,555.

Estimated Cost (Operation and Maintenance): \$22,271,728.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at <https://www.regulations.gov>, which is the Federal eRulemaking Portal; or (2) by facsimile (fax), if your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693-1648. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the ICR (OSHA-2011-0060). You may supplement electronic submission by uploading document files electronically. Comments and submissions are posted without change at [https://](https://www.regulations.gov)

www.regulations.gov. Therefore, OSHA cautions commenters about submitting personal information such as Social Security numbers and dates of birth. Although all submissions are listed in the <https://www.regulations.gov> index, some information (*e.g.*, copyrighted material) is not publicly available to read or download from this website. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the <https://www.regulations.gov> website to submit comments and access the docket is available at the website's "User Tips" link. Contact the OSHA Docket Office at (202) 693-2350, (TTY) (877) 889-5627 for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 8-2020 (85 FR 58393).

Signed at Washington, DC, on August 6, 2024.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2024-17972 Filed 8-12-24; 8:45 am]

BILLING CODE 4510-26-P

LIBRARY OF CONGRESS

Copyright Royalty Board

[Docket Nos. 19-CRB-0010-CD (2018-2021), 19-CRB-0011-SD (2018-2021)]

Distribution of 2018, 2019, 2020, 2021 Cable Royalty Funds; Distribution of 2018, 2019, 2020, 2021 Satellite Royalty Funds

AGENCY: Copyright Royalty Board (CRB), Library of Congress.

ACTION: Notice announcing commencement of distribution proceedings with request for Petitions to Participate.

SUMMARY: The Copyright Royalty Judges (Judges) announce the commencement of proceedings to determine distribution of 2018, 2019, 2020, and 2021 royalties deposited with the Copyright Office under the cable service statutory license and the satellite carrier license. The Judges also set the date by which all parties wishing to participate and share

in the distribution of cable or satellite retransmission royalties for 2018 through 2021, inclusive, must file Petitions to Participate and pay the accompanying \$150 filing fee. The Judges seek a single Petition to Participate in either or both the allocation phase and distribution phase of the cable royalty proceeding and a separate Petition to Participate in either or both the allocation phase and the distribution phase of the satellite royalty proceeding. Any party that fails to file a petition to participate by the time set forth in this notice shall not be a participant at any stage of either proceeding.

DATES: Petitions to Participate, the filing fee, and the additional required filing are due on or before September 12, 2024.

ADDRESSES: The petition to participate form is available online in eCRB, the Copyright Royalty Board's online electronic filing application, at <https://app.crb.gov/>.

Instructions: The petition to participate process has been simplified. Interested parties file a petition to participate by completing and filing the petition to participate form in eCRB and paying the fee in eCRB. Do not upload a petition to participate document. Additional required information regarding claims shall be filed in eCRB separately from the form and no later than the deadline for filing the petition to participate.

Docket: For access to the dockets, go to eCRB, the Copyright Royalty Board's electronic filing and case management system, at <https://app.crb.gov/>, and search for Docket Nos. 19–CRB–0010–CD (2018–2021) and 19–CRB–0011–SD (2018–2021).

FOR FURTHER INFORMATION CONTACT: Anita Brown, CRB Program Specialist, (202) 707–7658, crb@loc.gov.

SUPPLEMENTARY INFORMATION:

Background

Twice each year, cable services and satellite carriers deposit with the Copyright Office royalties payable for the privilege of retransmitting over-the-air television and radio broadcast signals via cable and satellite. 17 U.S.C. 111, 119. The Copyright Royalty Judges (Judges) oversee distribution of the royalties to copyright owners whose works are included in the retransmissions and who have filed a timely claim for royalties. Pursuant to 17 U.S.C. 803(b)(1), the Judges hereby give notice of the commencement of proceedings for distribution of cable and satellite royalties deposited for broadcasts retransmitted in 2018

through 2021 and call for interested parties to file Petitions to Participate.

Any party wishing to receive royalties payable for 2018 through 2021 must file a Petition to Participate in each proceeding no later than September 12, 2024. If an interested party fails to file a Petition to Participate in response to this notice, that party will not be eligible for distribution of royalties for 2018 through 2021 from either the cable or the satellite fund. The Judges will resolve all issues relating to distribution of cable and satellite royalty funds for 2018 through 2021 in these proceedings, Docket No. 19–CRB–0010–CD (2018–2021) and Docket No. 19–CRB–0011–SD (2018–2021). See 37 CFR 351.1(b)(2).

Commencement of Distribution Proceedings

The Judges have determined that controversies exist with regard to distribution of the cable and satellite retransmission royalties that licensees deposited for 2018, 2019, 2020, and 2021. Therefore, pursuant to Section 804(b)(8) of the Copyright Act, the Judges are causing this notice to be published in the **Federal Register** to announce the commencement of cable and satellite distribution proceedings for the years 2018, 2019, 2020, and 2021.

The Judges base their conclusion regarding 2018–2021 cable and satellite fund controversies upon the entirety of the records, including initial motions for partial distribution and the silence following orders granting some of those motions. The parties have not moved for further partial distribution despite reserving in their motions “the right to move for additional partial distributions . . . after . . . any . . . disputes come into better focus.” See, e.g., Motion of the Allocation Phase Parties for Partial Distribution of 2020 Satellite Royalty Funds, Docket No. 21–CRB–0009–SD (2020 SD) (Mar. 9, 2023).

Groups of claimants to the royalty funds, acting together and represented by joint counsel, have surely by now made an effort to negotiate a distribution scheme agreeable to all claimants. Apparently unable to reach an agreement, the claimants have taken no further action to seek further partial or final distribution of the funds.

In the present proceedings, groups of claimants have identified themselves as arranged into program categories: Program Suppliers, Joint Sports Claimants, Public Television Claimants/Public Broadcasting Service, Commercial Television Claimants/National Association of Broadcasters, Devotional Claimants, Canadian Claimants, American Society of

Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), SESAC, Inc., and National Public Radio. The Judges recognize that other claimants might not be represented by joint counsel for the groups of claimants. The Judges, therefore, provide this public notice to alert anyone who claims an interest in cable or satellite retransmission royalties deposited for royalty years 2018 through 2021, inclusive.

In order to share in the royalties at issue, any claimant not joined in one of the groups identified above must file a Petition to Participate, individually or jointly with other claimants. If, at a later point in the proceedings, a claimant chooses to join a group participating through joint counsel, that claimant may withdraw its individual Petition to Participate. The prerequisites to participation in a distribution proceeding are (1) the filing (individually or jointly) of a valid claim for each royalty year at issue and (2) the filing (individually or jointly) of a valid Petition to Participate.

Only attorneys who are members in good standing of the bar of one or more states may represent parties before the Judges. All corporate parties must appear through counsel. Only if the petitioning party is an individual, may he or she represent himself or herself without legal counsel. 37 CFR 303.2.

The Judges previously assigned separate docket numbers to the cable and satellite distribution proceedings for the period 2018 through 2021. Upon receipt of all Petitions to Participate, the Judges anticipate consolidating all cable proceedings for the years 2018 through 2021 under the captioned docket number 19–CRB–0010–CD (2018–2021) and all satellite proceedings for the years 2018 through 2021 under the captioned docket number 19–CRB–0011–SD (2018–2021).

Petitions To Participate

Parties filing Petitions to Participate must comply with the requirements of section 351.1(b) of the Copyright Royalty Board's regulations.

In addition, each Petition to Participate filing must be accompanied by a filing that sets forth for each claim year, the name of each claimant, the corresponding claim number, an indication of whether the claim is an individual or joint claim, and the program category into which the claim may fall. Each Petition to Participate shall be accompanied by a Microsoft Excel spreadsheet in electronic form consisting of the following columns: Claimant; Claim Year; Claim Number; Claim Type; Allocation Phase Category.

For “Claim Type,” participants shall enter “I” for an individual claimant, “J” for a joint claimant, and “W” for a claimant listed within a joint claim. The information in the column for “Claim Category” shall be coded 1 for syndicated programming and movies, 2 for live college and professional team sports, 3 for programs produced by local commercial television stations, 4 for public broadcasting, 5 for programs of a religious or devotional character, 6 for Canadian programs retransmitted within the United States, 7 for musical works carried on broadcast television signals, and 8 for National Public Radio (all non-music content broadcast on NPR stations). Claimants’ characterization of their claims at this juncture is for ease of administration only and is not dispositive of the ultimate disposition of any claim.

Petitioners who seek to categorize any claim in a category not listed in the previous paragraph shall assign a number (starting with 9) to each new category and shall include a brief description of each new proposed category. Claimants, or claimant representatives, that have filed claims in multiple years shall list the claims in separate rows for each year. Claimants, or claimant representatives, that will seek royalties in multiple claim categories shall list each claim in a separate row for each separate claim category. Similarly, claimants, or claimant representatives, that assert multiple claims in a given claim year shall list each claim and claim number in a separate row. Petitioners are responsible to make a sufficient showing of a “significant interest” in the royalty funds at issue to avoid dismissal of the Petition to Participate.

Claimants whose claims do not exceed \$1,000 in value and who include a statement in their Petitions to Participate that they will not seek distribution of more than \$1,000 may file the Petition to Participate without payment of the filing fee.

Participants should conform filed electronic documents to the Judges’ Guidelines for Electronic Documents, available online at https://www.crb.gov/docs/Guidelines_for_Electronic_Documents.pdf.

Dated: August 8, 2024.

David P. Shaw,

Chief Copyright Royalty Judge.

[FR Doc. 2024–18029 Filed 8–12–24; 8:45 am]

BILLING CODE 1410–72–P

OFFICE OF MANAGEMENT AND BUDGET

Notice of Training Session: Effective Participation in Executive Order 12866 Meetings With the Office of Information and Regulatory Affairs (in Spanish)

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of training session.

SUMMARY: Interested members of the public may request a meeting with the Office of Information and Regulatory Affairs (OIRA) to present their views about a regulatory action that is under OIRA review. These meetings, known as E.O. 12866 meetings, serve as listening sessions for OIRA officials and representatives from the agency or agencies taking the regulatory action. To assist members of the public seeking to request an E.O. 12866 meeting, OIRA has modified its website and posted an instructional video and a step-by-step guide to requesting a meeting, in English and Spanish, on its website. Moreover, to encourage participation by those who have not historically requested E.O. 12866 meetings, including those from underserved communities, OIRA will offer periodic and accessible trainings on effective participation in E.O. 12866 meetings. OIRA has recently held two training sessions on E.O. 12866 meeting participation. To assist Spanish-speaking members of the public who may wish to request an E.O. 12866 meeting in the future, OIRA will hold a training session in Spanish.

DATES: The training session will be held on August 14, 2024, at 3 to 3:45 p.m., Eastern Time.

ADDRESSES: Information to access the virtual training sessions will be provided upon registration. Members of the public may register by sending an email to publicparticipation@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Please email the Office of Management and Budget at publicparticipation@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Executive Order 12866 establishes and governs the process under which OIRA reviews agencies’ significant regulatory actions. E.O. 12866 provides that members of the public may meet with OIRA during OIRA’s review of draft proposed and final rules. These meetings, known as E.O. 12866 meetings, offer an opportunity for members of the public to present their views on regulatory actions under review. OIRA invites

representatives from the agency or agencies taking the regulatory action to these meetings, though participation may be limited by scheduling or other considerations. E.O. 12866 meetings serve as listening sessions for OIRA and agency representatives, and both the identity of meeting attendees and any written materials provided by the meeting requestors are disclosed on OIRA’s website.

In an effort to facilitate meeting requests, OIRA has modified its website to simplify the request form and to provide several avenues through which outside parties can request meetings.¹ In addition, OIRA has provided detailed written step-by-step instructions in English and Spanish,² as well as a video (also translated into Spanish),³ on its website, [RegInfo.gov](https://www.reginfo.gov), on how to schedule a meeting. To facilitate broader participation in E.O. 12866 meetings, including by requestors who have not historically requested such meetings or face challenges in traveling to Washington, DC, OIRA holds E.O. 12866 meetings virtually, primarily as teleconferences.

To encourage participation by members of the public who have not historically requested E.O. 12866 meetings, including members of underserved communities, OIRA will offer periodic and accessible trainings on effective participation in E.O. 12866 meetings. OIRA recently held two training sessions. To assist Spanish-speaking members of the public, OIRA will hold a training session in Spanish on August 14, 2024, at 3 to 3:45 p.m., Eastern Time. The training session will be conducted entirely in Spanish, and will include a question-and-answer period. At the training sessions OIRA will describe (1) what an E.O. 12866 meeting is; (2) how members of the public may request and schedule a meeting; (3) the format of E.O. 12866 meetings; (4) what type of information or input is most helpful to receive during an E.O. 12866 meeting; and (5) what makes for an effective presentation during an E.O. 12866 meeting.

Richard L. Revesz,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 2024–17154 Filed 8–12–24; 8:45 am]

BILLING CODE 3110–01–P

¹ <https://www.reginfo.gov/public/do/eo/neweommeeting>.

² <https://www.reginfo.gov/public/jsp/Utilities/EO-12866-Video-Transcript-english.pdf> (in English); and <https://www.reginfo.gov/public/jsp/Utilities/EO-12866-Video-Transcript-spanish.pdf> (in Spanish).

³ <https://www.youtube.com/watch?v=1zxsfsgJ3I> (in English) and <https://www.youtube.com/watch?v=9dRt4XxZ78c> (in Spanish).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 24–050]

Notice of Intent To Grant an Exclusive, Co-Exclusive or Partially Exclusive Patent License**AGENCY:** National Aeronautics and Space Administration (NASA).**ACTION:** Notice of intent to grant exclusive, co-exclusive or partially exclusive patent license.**SUMMARY:** NASA hereby gives notice of its intent to grant an exclusive, co-exclusive or partially exclusive patent license to practice the inventions described and claimed in the patents and/or patent applications listed in **SUPPLEMENTARY INFORMATION** below.**DATES:** The prospective exclusive, co-exclusive or partially exclusive license may be granted unless NASA receives written objections including evidence and argument, no later than August 28, 2024 that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA no later than August 28, 2024 will also be treated as objections to the grant of the contemplated exclusive, co-exclusive or partially exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.**Objections and Further Information:** Written objections relating to the prospective license or requests for further information may be submitted to Agency Counsel for Intellectual Property, NASA Headquarters at Email: hq-patentoffice@mail.nasa.gov. Questions may be directed to Phone: (202) 358–0646.**SUPPLEMENTARY INFORMATION:** NASA intends to grant an exclusive, co-exclusive, or partially exclusive patent license in the United States to practice the inventions described and claimed in: U.S. Patent No. 10,406,346 titled “DEVICE AND METHOD FOR HEALING WOUNDS” and U.S. Patent No. 11,298,526 titled “DEVICE FOR HEALING WOUNDS” to Kinnor Foundation, Inc. and its subsidiary Kinnor Technologies, LLC, each having its principal place of business in Orange Beach, Alabama. The fields of use may be limited. NASA has not yet made a final determination to grant the requested license and may deny the

requested license even if no objections are submitted within the comment period.

This notice of intent to grant an exclusive, co-exclusive or partially exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at <http://nasa.technology.gov>.**Trenton J. Roche,***Agency Counsel for Intellectual Property, National Aeronautics and Space Administration.*

[FR Doc. 2024–17960 Filed 8–12–24; 8:45 am]

BILLING CODE 7510–13–P**POSTAL SERVICE****International Product Change—Priority Mail Express International, Priority Mail International & First-Class Package International Service Agreement****AGENCY:** Postal Service™.**ACTION:** Notice.**SUMMARY:** The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a Priority Mail Express International, Priority Mail International & First-Class Package International Service contract to the list of Negotiated Service Agreements in the Competitive Product List in the Mail Classification Schedule.**DATES:** *Date of notice:* August 13, 2024.**FOR FURTHER INFORMATION CONTACT:** Christopher C. Meyerson, (202) 268–7820.**SUPPLEMENTARY INFORMATION:** The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on August 7, 2024, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express International, Priority Mail International & First-Class Package International Service Contract 43 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2024–482 and CP2024–489.**Christopher Doyle,***Attorney, Ethics and Legal Compliance.*

[FR Doc. 2024–17943 Filed 8–12–24; 8:45 am]

BILLING CODE 7710–12–P**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–100669; File No. SR-CboeBZX–2024–074]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

August 7, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on August 1, 2024, Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) filed with the Securities and Exchange Commission (“SEC” or “Commission”) the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.**I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change**

Cboe BZX Exchange, Inc. (the “Exchange” or “BZX”) proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange’s website (http://markets.cboe.com/us/equities/regulation/rule_filings/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 amend its Fees Schedule, effective August 1, 2024.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 17 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 12% of the market share.³ Thus, in such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. In response to competitive pricing, the Exchange, like other options exchanges, offers rebates and assesses fees for certain order types executed on or routed through the Exchange.

The Exchange's fee schedule sets forth standard rebates and rates applied per contract. For example, the Exchange provides a rebate of \$0.29 per contract for Market Maker orders that add liquidity in Penny Securities, yielding fee code PM. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members opportunities to qualify for higher rebates or reduced fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying increasingly more stringent criteria. For example, the Exchange currently offers four Market Maker Penny Add Volume Tiers ("MM Penny Add Tier") under footnote 6 of the Fee Schedule which

provide rebates between \$0.31 and \$0.43 per contract for qualifying Market Maker orders which meet certain add liquidity thresholds and yield fee code PM.

Currently, the MM Penny Add Tiers includes one Market Maker Cross-Asset Add Tier, which requires participation on the Exchange's equities platform ("BZX Equities"). Under the Market Maker Cross-Asset Add Tier, the Exchange provides a rebate of \$0.39 per contract where a Member (1) has an ADAV⁴ in Market Maker orders in SPY, QQQ $\geq 0.20\%$ of average SPY, QQQ OCV⁵; (2) has on BZX Equities an ADAV greater than or equal to 0.45% of average TCV⁶ or an ADAV $\geq 45,000,000,000$; and (3) is the Lead Market Maker ("LMM")⁷ on BZX Equities in at least 50 equity symbols. The Exchange proposes to amend the rebate for the Market Maker Cross-Asset Add Tier,⁸ from \$0.39 per contract to \$0.38 per contract.

Further, the Exchange proposes to adopt a new MM Penny Add Tier, specifically Market Maker Cross-Asset Add Tier 2, which requires participation on BZX Equities. Under the proposed tier, the Exchange would provide a rebate of \$0.39 per contract where a Member (1) has an ADAV in Market Maker orders in SPY, QQQ $\geq 0.25\%$ of average SPY, QQQ OCV; (2) has on BZX Equities an ADAV $\geq 0.45\%$ of average TCV or an ADAV $\geq 47,500,000$; and (3) is the LMM on BZX Equities in at least 50 equity symbols.

The Exchange believes the amended rebate for Market Maker Cross-Asset Tier 1 and the proposed Market Maker Cross-Asset Tier 2, along with the existing MM Penny Add Tiers, continue to provide an incremental incentive for Members to strive for the highest tier levels, which provide increasingly higher rebates for such transactions. Overall, the MM Penny Add Tiers,

including the Market Maker Cross-Asset Add Tiers (current and proposed) are designed to encourage Members to increase their order flow, thereby contributing to a deeper and more liquid market, which benefits all market participants and provides greater execution opportunities on the Exchange.

Additionally, the Exchange assesses fees in connection with orders routed away to various exchanges. The Exchange notes that its current approach to routing fees is to set forth in a simple manner certain sub-categories of fees that approximate the cost of routing to other options exchanges based on the cost of transaction fees assessed by each venue as well as costs to the Exchange for routing (*i.e.*, clearing fees, connectivity and other infrastructure costs, membership fees, etc.) (collectively, "Routing Costs"). The Exchange then monitors the fees charged as compared to the costs of its routing services and adjusts its routing fees and/or sub-categories to ensure that the Exchange's fees do indeed result in a rough approximation of overall Routing Costs, and are not significantly higher or lower in any area. The Exchange notes that another options exchange currently assesses routing fees in a similar manner as the Exchange's current approach to assessing approximate routing fees.⁹

Currently, under the Fee Codes and Associated Fees section of the Fees Schedule, fee code RP is appended to routed Customer orders to NYSE American ("AMEX"), BOX Options Exchange ("BOX"), Cboe Exchange, Inc. ("Cboe"), Cboe EDGX Exchange, Inc. ("EDGX"), MIA Options Exchange ("MIA") or Nasdaq PHLX LLC ("PHLX") (excluding orders in SPY options to PHLX) and assesses a charge of \$0.25 per contract. The Exchange proposes to amend fee code RP to add applicable Customer orders routed to MIA Sapphire, LLC ("SPHR"), in anticipation of the launch of the new options exchange. The charge assessed per contract for fee code RP remain the same under the proposed rule change.

The proposed changes result in an assessment of fees that, in anticipation of the launch of another options exchange, is more in line with the Exchange's current approach to routing fees, that is, in a manner that approximates the cost of routing Customer orders to other away options exchanges, based on the general cost of transaction fees assessed by the sub-

⁴ "ADAV" means average daily added volume calculated as the number of contracts added.

⁵ "OCV" means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation ("OCC") for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

⁶ "TCV" means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

⁷ "Lead Market Maker" means a Market Maker registered with the Exchange for a particular LMM Security that has committed to maintain Minimum Performance Standards in the LMM Security. See Rule 11.8(e).

⁸ As part of this proposed rule change, the Exchange proposes to rename this Market Maker Cross-Asset Tier as Market Maker Cross-Asset Tier 1

³ See Cboe Global Markets U.S. Options Monthly Market Volume Summary (July 30, 2024), available at https://markets.cboe.com/us/options/market_statistics/.

⁹ See *e.g.*, MIA Options Exchange Fee Schedule, Section 1(c), "Fees for Customer Orders Routed to Another Options Exchange."

category of away options exchanges for such orders (as well as the Exchange's Routing Costs).¹⁰ The Exchange notes that routing through the Exchange is optional and that Members will continue to be able to choose where to route applicable Customer orders.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹¹ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹² requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)¹³ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,¹⁴ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Members and other persons using its facilities.

In particular, the Exchange believes the proposed changes to the MM Penny Add Tiers are reasonable because they provide additional opportunities for Members to receive a rebate by providing alternative criteria for which they can reach. The Exchange notes that volume-based incentives and discounts have been widely adopted by

exchanges,¹⁵ including the Exchange,¹⁶ and are reasonable, equitable and non-discriminatory because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns. Additionally, as noted above, the Exchange operates in a highly competitive market. The Exchange is only one of several options venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. Competing options exchanges offer similar tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon Members achieving certain volume and/or growth thresholds. These competing pricing schedules, moreover, are presently comparable to those that the Exchange provides.

Moreover, the Exchange believes the proposed MM Penny Add Tier, namely Market Maker Cross-Asset Tier 2, is a reasonable means to encourage Members to increase their liquidity on the Exchange and also their participation on BZX Equities. The Exchange believes that adopting tiers with alternative criteria to the existing MM Penny Add Tiers may encourage Members to increase their order flow on BZX Options and Equities.

For example, the proposed Market-Maker Cross-Asset Tier 2 would provide an opportunity for Members who have an ADAV in Market Maker orders in SPY, QQQ of at least 0.25% of average SPY, QQQ OCV, but less than an ADAV of Market Maker orders of at least 0.45% of average OCV (the requirement under current Tier 3), to receive a higher rebate than they may currently receive but equal or slightly lower than the rebate they would receive for reaching the more stringent criteria under current Tiers 3 through 4, if they also meet the threshold requirements based on BZX Equities participation. Similarly, for Market Makers that participate on both BZX Options and Equities, and do not currently meet the 0.35% ADAV threshold under current MM Penny Add Tier 2, but can or do meet the proposed

equities thresholds, the proposed tier may incentivize those participants to grow their options volume in order to receive enhanced rebates. Increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. The Exchange also believes that proposed enhanced rebate is reasonable based on the difficulty of satisfying the tier's criteria and ensures the proposed rebate and thresholds appropriately reflect the incremental difficulty to achieve the existing MM Penny Add Tiers.

The proposed enhanced rebate amounts also do not represent a significant departure from the enhanced rebates currently offered under the Exchange's existing MM Penny Add Tiers. Indeed, the proposed enhanced rebate amount under the proposed Cross-Asset Add Tier 2 (\$0.39) is incrementally higher than current Tiers 1 and 2 (\$0.31 and \$0.38, respectively), which the Exchange believes offer slightly less stringent criteria than the proposed Cross-Asset Add Tier 2, but is incrementally lower than the rebate offered under existing Tier 4 (\$0.43), which the Exchange believes is more stringent than the proposed criteria under the proposed Cross-Asset Tier 2. Similarly, the proposed enhanced rebate amount under the proposed Cross-Asset Tier 2 (\$0.39) is the same as current Tier 3 (\$0.39), which the Exchange believes reflects a similar level of difficulty but using alternative types of criteria. Finally, the proposed enhanced rebate amount under the proposed Cross-Asset Tier 2 (\$0.39) is incrementally higher than the rebate offered under existing Cross-Asset Add Tier 1, which the Exchange believes is less stringent than the proposed criteria than the proposed Cross-Asset Add Tier 2. The Exchange also notes that the proposed rebates remain within the range of the enhanced rebates offered under the current MM Penny Add Tiers (*i.e.*, \$0.31–\$0.43).

Further, the Exchange believes that the amended fee for Market Maker Cross-Asset Tier 1, considered with the proposed criteria and fee for proposed Market Maker Cross-Asset Tier 2, is reasonable, as such changes are designed to encourage Members to increase their liquidity on the Exchange and also their participation on BZX Equities to continue to achieve the rebate offered under Market Maker Cross-Asset Tier 1 or to achieve the rebate offered under proposed Market Maker Cross-Asset Tier 2. The Exchange

¹⁰ See Securities Exchange Act Release No. 97800 (June 26, 2023), 88 FR 42409 (June 30, 2023) (SR-MRX-2023-11).

¹¹ 15 U.S.C. 78f(b).

¹² 15 U.S.C. 78f(b)(5).

¹³ *Id.*

¹⁴ 15 U.S.C. 78f(b)(4).

¹⁵ See *e.g.*, Choe EDGX U.S. Options Exchange Fee Schedule, Footnote 2, Market Maker Volume Tiers, which provide reduced fees between \$0.02 and \$0.17 per contract for Market Maker Penny and Non-Penny orders where Members meet certain volume thresholds.

¹⁶ See *e.g.*, Choe BZX U.S. Options Exchange Fee Schedule, Footnotes 6 and 7, Market Maker Penny and Non-Penny Volume Tiers which provide enhanced rebates for Market Maker orders where Members meet certain volume thresholds.

notes that increased Market Maker activity (including LMMs), particularly, facilitates tighter spreads and an increase in overall liquidity provider activity, both of which signal additional corresponding increase in order flow from other market participants, contributing towards a robust, well-balanced market ecosystem. Indeed, increased overall order flow benefits investors across both the Exchange's options and equities platforms by continuing to deepen the Exchange's liquidity pool, potentially providing even greater execution incentives and opportunities, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

The Exchange believes that the proposal represents an equitable allocation of fees and is not unfairly discriminatory because it applies uniformly to all Market Makers. Additionally, a number of Market Makers have a reasonable opportunity to satisfy the criteria of the Cross-Asset Add Tier 1, which the Exchange believes is less stringent than existing MM Penny Add Tier 2, and proposed Cross-Asset Add Tier 2, which the Exchange believes is less stringent than the existing MM Penny Add Tiers 3 and 4. While the Exchange has no way of knowing whether this proposed rule change would definitively result in any particular Market Maker qualifying for the proposed tiers, the Exchange anticipates that approximately two Market Makers will be able to compete for and achieve the criteria of Cross-Asset Add Tier 1 and approximately two Market Makers will be able to compete for and achieve the proposed criteria of the proposed Cross-Asset Add Tier 2; however, the proposed tiers are open to any Market Maker that satisfies the applicable tiers' criteria. The Exchange believes the proposed tiers could provide an incentive for other Members to submit additional liquidity on BZX Options and Equities to qualify for the proposed enhanced rebates. To the extent a Member participates on the Exchange but not on BZX Equities, the Exchange does believe that the proposal is still reasonable, equitably allocated and non-discriminatory with respect to such Member based on the overall benefit to the Exchange resulting from the success of BZX Equities. Particularly, the Exchange believes such success allows the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the

Exchange, whether they participate on BZX Equities or not. The proposed pricing program is also fair and equitable in that membership in BZX Equities is available to all market participants, which would provide them with access to the benefits on BZX Equities provided by the proposed change, even where a member of BZX Equities is not necessarily eligible for the proposed enhanced rebates on the Exchange.

The Exchange also notes that it does not believe the proposed changes will adversely impact any Member's pricing or ability to qualify for other tiers. Rather, should a Member not meet the proposed criteria, the Member will merely not receive the proposed enhanced rebate, and has five alternative choices to aim to achieve under the MM Penny Add Tiers. Furthermore, the proposed enhanced rebate would apply to all Members that meet the required criteria under proposed tier.

Additionally, the Exchange believes the proposed rule change to amend fee code RD to account for SPHR's expected assessment of fees for Customer orders is reasonable because it is reasonably designed to assess routing fees in line with the Exchange's current approach to routing fees. That is, the proposed rule change is intended to include Customer orders routed to SPHR in the most appropriate sub-category of fees that approximates the cost of routing to a group of away options exchanges based on the cost of transaction fees assessed by each venue as well as Routing Costs to the Exchange. As noted above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange notes that routing through the Exchange is optional and that Members will continue to be able to choose where to route their Customer orders in the same sub-category group of away exchanges as they currently may choose to route. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all Members. The Exchange further notes that another options exchange currently approximates routing fees in a similar manner as the Exchange's

current approach.¹⁷ The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because all Members' applicable Customer orders routed to SPHR will be automatically and uniformly assessed the applicable routing charge.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed changes to the MM Penny Add Tiers will impose any burden on intramarket competition. Particularly, the proposed change applies uniformly to all Market Makers. As discussed above, to the extent a Member participates on the Exchange but not on BZX Equities, the Exchange notes that the proposed changes can provide an overall benefit to the Exchange resulting from the success of BZX Equities. Such success enables the Exchange to continue to provide and potentially expand its existing incentive programs to the benefit of all participants on the Exchange, whether they participate on BZX Equities or not. The proposed pricing program is also fair and equitable in that membership in BZX Equities is available to all market participants. Additionally, the proposed change is designed to attract additional order flow to the Exchange and BZX Equities. Greater liquidity benefits all market participants on the Exchange by providing more trading opportunities and encourages Members to send orders, thereby contributing to robust levels of liquidity, which benefits all market participant. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes "more efficient pricing of individual stocks for all types of orders, large and small."¹⁸

Further, the Exchange does not believe the proposed rule change to amend fee code RP will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. All Members' applicable Customer orders routed to SPHR will automatically yield fee code RP and

¹⁷ See e.g., MIA Options Exchange Fee Schedule, Section 1(c), "Fees for Customer Orders Routed to Another Options Exchange."

¹⁸ Securities Exchange Act Release No. 51808, 70 FR 37495, 37498-99 (June 29, 2005) (S7-10-04) (Final Rule).

uniformly be assessed the corresponding fee. The Exchange notes that another options exchange approximates routing costs in a similar manner as the Exchange's current approach.¹⁹

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 16 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 12% of the market share.²⁰ Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."²¹ The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker

dealers' . . .".²² Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act²³ and paragraph (f) of Rule 19b-4²⁴ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CboeBZX-2024-074 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-CboeBZX-2024-074. This file number should be included on the subject line if email is used. To help the Commission process and review your

comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CboeBZX-2024-074, and should be submitted on or before September 3, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁵

Sherry R. Haywood,
Assistant Secretary.

[FR Doc. 2024-17950 Filed 8-12-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35292; File No. 812-15451]

Felicitas Private Markets Fund, et al.

August 8, 2024.

AGENCY: Securities and Exchange Commission ("Commission" or "SEC").

ACTION: Notice.

Notice of application for an order pursuant to sections 17(d) and 57(i) of the Investment Company Act of 1940 (the "Act") and rule 17d-1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d-1 under the Act.

¹⁹ See e.g., MIAx Options Exchange Fee Schedule, Section 1(c), "Fees for Customer Orders Routed to Another Options Exchange."

²⁰ See *supra* note 1.

²¹ See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

²² *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

²³ 15 U.S.C. 78s(b)(3)(A).

²⁴ 17 CFR 240.19b-4(f).

²⁵ 17 CFR 200.30-3(a)(12).

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (“BDCs”) and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Felicita Private Markets Fund, Skypoint Capital Advisors, LLC, Felicita Global Partners, LLC, Felicita SA1, LP, Felicita Secondary Fund II, LP, Felicita Tactical Opportunities Fund, LP, and Felicita Debt Fund, LP.

FILING DATES: The application was filed on April 6, 2023, and amended on September 11, 2023, May 17, 2024, June 18, 2024, and August 7, 2024.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC’s Secretary at *Secretaries-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on September 3, 2024, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer’s interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission’s Secretary at *Secretaries-Office@sec.gov*.

ADDRESSES: The Commission: *Secretaries-Office@sec.gov*. Applicants: *joshua.deringer@faegredrinker.com* and *reports@felicitasgp.com*.

FOR FURTHER INFORMATION CONTACT: Matthew Cook, Senior Counsel, or Terri Jordan, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel’s Office).

SUPPLEMENTARY INFORMATION: For Applicants’ representations, legal analysis, and conditions, please refer to Applicants’ fourth amended and restated application, dated August 7, 2024, which may be obtained via the Commission’s website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC’s EDGAR system. The SEC’s EDGAR system may be searched at,

<http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html>. You may also call the SEC’s Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100670; File No. SR–SAPPHIRE–2024–02]

Self-Regulatory Organizations; MIAx Sapphire, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 404, Series of Option Contracts Open for Trading

August 7, 2024.

Pursuant to Section 19(b)(1) ¹ of the Securities Exchange Act of 1934 (“Act”), ² and Rule 19b–4 thereunder, ³ notice is hereby given that on July 24, 2024, MIAx Sapphire, LLC (“MIAx Sapphire” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 404, Series of Option Contracts Open for Trading.

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/miax-sapphire/rule-filings>, at the Exchange’s principal office, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these

statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

In preparation for the launch of the MIAx Sapphire Exchange, ⁴ the Exchange proposes to update Rule 404, Series of Option Contracts ⁵ Open for Trading, in order to update the Rule to reflect changes that have occurred within the industry, and that were made to the Exchange’s affiliate, MIAx Pearl Options, Rule 404, while MIAx Sapphire’s Form 1 Application to register as a national securities exchange was pending approval.

The Exchange proposes to (i) copy a proposal originally submitted by Nasdaq ISE to adopt two Wednesday expirations for options on certain Exchange Traded Products (“Wednesday Expirations”); ⁶ (ii) copy a proposal originally submitted by the Cboe Exchange to adopt the listing of option series ⁷ that would expire at the close of business on the last business day of a calendar month (“Monthly Options Series”); ⁸ (iii) copy a proposal originally submitted by Nasdaq ISE to permit the listing and trading of option series with Tuesday and Thursday expirations for options on iShares Russell 2000 ETF (IWM) (“Tuesday and Thursday IWM Expirations”); ⁹ and (iv) copy a proposal

⁴ See Securities Exchange Act Release No. 100539 (July 15, 2024), 89 FR 58848 (July 19, 2024) (File No. 10–240) (order approving application of MIAx Sapphire, LLC for registration as a national securities exchange).

⁵ The term “option contract” means a put or a call issued, or subject to issuance, by the Clearing Corporation pursuant to the Rules of the Clearing Corporation. See Exchange Rule 100.

⁶ See Securities Exchange Act Release No. 98905 (November 13, 2023), 88 FR 80348 (November 17, 2023) (SR–ISE–2023–11) (Order Approving a Proposed Rule Change to Amend the Short Term Option Series Program to Permit the Listing of Two Wednesday Expirations for Options on Certain Exchange Traded Products).

⁷ The term “series of options” means all option contracts of the same class having the same exercise price and expiration date. See Exchange Rule 100.

⁸ See Securities Exchange Act Release No. 98915 (Nov. 13, 2023), 88 FR 80356 (November 17, 2023) (SR–CBOE–2023–049) (Order Approving a Proposed Rule Change To Adopt Monthly Options Series).

⁹ See Securities Exchange Act Release No. 99946 (April 11, 2024), 89 FR 27471 (April 17, 2024) (SR–ISE–2024–06) (Order Approving a Proposed Rule Change to Amend the Short Term Option Series Program).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b–4.

originally submitted by the Exchange's affiliate, MIAX Options, to adopt a new strike interval program ("Low Priced Stock Strike Price Interval Program").¹⁰ Additionally, the Exchange notes that all the changes contained in the aforementioned proposals have been adopted by the Exchange's affiliate, MIAX Pearl Options,¹¹ and are currently operative in MIAX Pearl Options Rule 404.

Proposal

Wednesday Expirations

The Exchange proposes to amend Interpretations and Policies .02 to expand the Short Term Option Series Program to permit the listing of two Wednesday expirations for options on United States Oil Fund, LP ("USO"), United States Natural Gas Fund, LP ("UNG"), SPDR Gold Shares ("GLD"), iShares Silver Trust ("SLV"), and iShares 20+ Year Treasury Bond ETF ("TLT") (collectively "Exchange Traded Products" or "ETPs").

Currently, as set forth in Policy .02 of Rule 404, after an option class¹² has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day ("Short Term Option Opening Date") series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which monthly options series or Quarterly Options Series expire ("Friday Short Term Option Expiration Dates"). The Exchange may have no more than a total of five Short Term Option Friday Expiration Dates ("Short Term Option Weekly Expirations"). If the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date for Short Term Option Weekly Expirations will be the first

business day immediately prior to that Friday.

Additionally, the Exchange may open for trading series of options on the symbols provided in Table 1 of Policy .02 of Rule 404 that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which monthly options series or Quarterly Options Series expire ("Short Term Option Daily Expirations"). For those symbols listed in Table 1, the Exchange may have no more than a total of two Short Term Option Daily Expirations for each of Monday, Tuesday, Wednesday, and Thursday expirations at one time.

At this time, the Exchange proposes to expand the Short Term Option Daily Expirations to permit the listing and trading of options on USO, UNG, GLD, SLV, and TLT expiring on Wednesdays. The Exchange proposes to permit two Short Term Option Expiration Dates beyond the current week for each Wednesday expiration at one time.¹³ In order to effectuate the proposed changes, the Exchange would add USO, UNG, GLD, SLV, and TLT to Table 1 of Policy .02 of Rule 404, which specifies each symbol that qualifies as a Short Term Option Daily Expiration.

The proposed Wednesday USO, UNG, GLD, SLV, and TLT expirations will be similar to the current Wednesday SPY, QQQ, and IWM Short Term Option Daily Expirations set forth in Policy .02 of Rule 404, such that the Exchange may open for trading on any Tuesday or Wednesday that is a business day (beyond the current week) series of options on USO, UNG, GLD, SLV, and TLT to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series expire ("Wednesday USO Expirations," "Wednesday UNG Expirations," "Wednesday GLD Expirations," "Wednesday SLV Expirations," and "Wednesday TLT Expirations") (collectively, "Wednesday ETP Expirations").¹⁴ In the event Short

Term Option Daily Expirations expire on a Wednesday and that Wednesday is the same day that a Quarterly Options Series expires, the Exchange would skip that week's listing and instead list the following week; the two weeks would therefore not be consecutive. Today, Wednesday expirations in SPY, QQQ, and IWM similarly skip the weekly listing in the event the weekly listing expires on the same day in the same class as a Quarterly Option Series.

USO, UNG, GLD, SLV, and TLT Friday expirations would continue to have a total of five Short Term Option Expiration Dates provided those Friday expirations are not Fridays in which monthly options series or Quarterly Options Series expire ("Friday Short Term Option Expiration Dates").

Similar to Wednesday SPY, QQQ, and IWM Short Term Option Daily Expirations within Policy .02 of Rule 404, the Exchange proposes that it may open for trading on any Tuesday or Wednesday that is a business day series of options on USO, UNG, GLD, SLV, and TLT that expire at the close of business on each of the next two Wednesdays that are business days and are not business days in which Quarterly Options Series expire.

The interval between strike prices for the proposed Wednesday ETP Expirations will be the same as those for the current Short Term Option Series for Friday expirations applicable to the Short Term Option Series Program.¹⁵ Specifically, the Wednesday ETP Expirations will have a strike interval of \$0.50 or greater for strike prices below \$100, \$1 or greater for strike prices between \$100 and \$150, and \$2.50 or greater for strike prices above \$150.¹⁶ As is the case with other equity options listed pursuant to the Short Term Option Series Program, the Wednesday ETP Expirations series will be P.M.-settled.

With respect to Wednesday Expirations, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on the symbols provided in Table 1 of Interpretations and Policies .02 of Rule 404, that expire at the close of business on each of the next two Wednesdays.¹⁷ If that Wednesday is not a business day, the series shall expire on the first business day immediately prior to that

where standard expiration option series, Monthly Option Series, or Quarterly Options Series expire.

¹⁵ See Policy .02(e) of Rule 404.

¹⁶ *Id.*

¹⁷ See Interpretation and Policy .02 of Exchange Rule 404.

¹⁰ See Securities Exchange Release Act No. 98917 (November 13, 2023), 88 FR 80361 (November 17, 2023) (SR-MIAX-2023-36) (Order Approving a Proposed Rule Change to Amend Exchange Rule 404, Series of Option Contracts Open for Trading).

¹¹ See Securities Exchange Release Act Nos. 99180 (December 14, 2023), 88 FR 88148 (December 20, 2023) (SR-PEARL-2023-70); 99251 (December 29, 2023), 89 FR 819 (January 5, 2024) (SR-PEARL-2023-72); 99997 (April 19, 2024), 89 FR 32480 (April 26, 2024) (SR-PEARL-2024-21); and 99034 (November 29, 2023), 88 FR 84379 (December 5, 2023) (SR-PEARL-2023-66).

¹² The terms "class of options" or "option class" means all option contracts covering the same underlying security. See Exchange Rule 100.

¹³ Consistent with the current operation of the rule, the Exchange notes that if it adds a Wednesday expiration on a Tuesday, it could technically list three outstanding Wednesday expirations at one time. The Exchange will therefore clarify the rule text in Policy .02 of Rule 404 to specify that it can list two Short Term Option Expiration Dates *beyond the current week* for each Monday, Tuesday, Wednesday, and Thursday expiration.

¹⁴ While the relevant rule text in Policy .02 of Rule 404 also indicates that the Exchange will not list such expirations on a Wednesday that is a business day in which monthly options series expire, practically speaking this would not occur, as the Exchange would not list any "Wednesday Expirations" that would expire on the close of business on a Wednesday that is a business day

Wednesday, *e.g.*, Tuesday of that week.¹⁸

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.¹⁹ The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.²⁰ With the proposed changes, this thirty (30) series restriction would apply to Wednesday USO, UNG, GLD, SLV, and TLT Short Term Option Daily Expirations as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming that they file similar rules with the Commission to list Wednesday ETP Expirations.

Further, as with Wednesday SPY, QQQ, and IWM Expirations, the Exchange would not permit Wednesday ETP Expirations to expire on a business day in which monthly options series or Quarterly Options Series expire. Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Wednesdays that are business days and are not business days in which monthly options series or Quarterly Options Series expire. The Exchange believes that it is reasonable to not permit two expirations on the same day in which a monthly options series or a Quarterly Options Series would expire because those options would be duplicative of each other.

The Exchange does not believe that any market disruptions will be encountered with the introduction of Wednesday ETP Expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Wednesday ETP Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire on Wednesday for SPY, QQQ, and IWM and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Wednesday for SPY, QQQ, and IWM. Additionally, the Exchange notes that this change is substantively identical to a proposal adopted by the

Exchange's affiliate, MIAx Pearl Options.²¹

Monthly Options Series

The Exchange proposes to amend Rule 404 to accommodate the listing of options series that would expire at the close of business on the last business day of a calendar month ("Monthly Options Series").

Pursuant to new proposed Interpretations and Policies .13 to Exchange Rule 404, the Exchange may list Monthly Options Series for up to five currently listed option classes that are either index options or options on exchange-traded funds ("ETFs").²² In addition, the Exchange may also list Monthly Options Series on any options classes that are selected by other securities exchanges that employ a similar program under their respective rules.²³ The Exchange may list 12 expirations for Monthly Options Series. Monthly Options Series need not be for consecutive months; however, the expiration date of a nonconsecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively.²⁴

²¹ See Securities Exchange Release Act No. 99180 (December 14, 2023), 88 FR 88148 (December 20, 2023) (SR-PEARL-2023-70).

²² The Exchange proposes to amend Exchange Rule 404(a) to provide that proposed Interpretation and Policy .13 to Exchange Rule 404 will describe how the Exchange will fix a specific expiration date and exercise price for Monthly Options Series and that proposed Interpretation and Policy .13 to Exchange Rule 404 will govern the procedures for opening Monthly Options Series, respectively. This is consistent with language in current Exchange Rules 404(a) for other Short Term Options Series and Quarterly Options Series.

²³ Currently, Cboe Exchange, Inc. has a substantively identical program. See Securities Exchange Act Release No. 98915 (Nov. 13, 2023) (SR-CBOE-2023-049) (Order Approving a Proposed Rule Change To Adopt Monthly Options Series). See also Cboe Exchange Rule 4.5(g).

²⁴ The Exchange notes this provision considers consecutive monthly listings. In other words, as other expirations (such as Quarterly Options Series) are not counted as part of the maximum, those expirations would not be considered when considering when the last expiration date would be if the maximum number were listed consecutively. For example, if it is January 2024 and the Exchange lists Quarterly Options Series in class ABC with expirations in March, June, September, December, and the following March, the Exchange could also list Monthly Options Series in class ABC with expirations in January, February, April, May, July, August, October, and November 2024 and January and February of 2025. This is because, if Quarterly Options Series, for example, were counted, the Exchange would otherwise never be able to list the maximum number of Monthly Options Series. This is consistent with the listing provisions for Quarterly Options Series, which permit calendar quarter expirations. The need to list series with the same expiration in the current calendar year and the following calendar year (whether Monthly or Quarterly expiration) is to allow market participants to execute one-year strategies pursuant to which

Other expirations in the same class are not counted as part of the maximum numbers of Monthly Options Series expirations for a class.²⁵ Monthly Options Series will be P.M.-settled.²⁶

The strike price of each Monthly Options Series will be fixed at a price per share, with at least two, but no more than five, strike prices above and at least two, but no more than five, strike prices below the value of the underlying index or price of the underlying security at about the time that a Monthly Options Series is opened for trading on the Exchange. The Exchange will list strike prices for Monthly Options Series that are reasonably related to the current price of the underlying security or current index value of the underlying index to which such series relates at about the time such series of options is first opened for trading on the Exchange. The term "reasonably related to the current price of the underlying security or index value of the underlying index" means that the exercise price is within 30% of the current underlying security price or index value.²⁷ Additional Monthly Options Series of the same class may be open for trading on the Exchange when the Exchange deems it necessary to maintain an orderly market, to meet Member²⁸ demand, or when the market price of the underlying security moves substantially from the initial exercise price or prices. To the extent that any additional strike prices are listed by the Exchange, such additional strike prices will be within 30% above or below the closing price of the underlying index or security on the preceding day. The Exchange may also open additional strike prices of Monthly Options Series that are more than 30% above or below the current price of the underlying

they may not roll their exposures in the longer-dated options (*e.g.*, January 2025) prior to the expiration of the nearer-dated option (*e.g.*, January 2024).

²⁵ See proposed Interpretation and Policy .13(b) to Exchange Rule 404.

²⁶ See proposed Interpretation and Policy .13(c) to Exchange Rule 404.

²⁷ See proposed Interpretation and Policy .13(d). The Exchange notes these proposed provisions are consistent with the initial series provision for the Quarterly Options Series program in Interpretation and Policy .03 to Exchange Rule 404. While different than the initial strike listing provision for the Quarterly Options Series program in current Interpretation and Policy .03 to Exchange Rule 404, the Exchange believes the proposed provision is appropriate, as it contemplates classes that may have strike intervals of \$5 or greater.

²⁸ The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of MIAx Pearl Rules for purposes of trading on the Exchange as an "Electronic Exchange Member" or "Market Maker." Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

¹⁸ See Exchange Rule 100, "Short Term Option Series."

¹⁹ See Policy .02(c) of Rule 404.

²⁰ *Id.*

security, provided that demonstrated Member interest exists for such series, as expressed by institutional, corporate, Members or their brokers. Market Makers trading for their own account will not be considered when determining Member interest under this provision. The opening of the new Monthly Options Series will not affect the series of options of the same class previously opened.²⁹ The interval between strike prices on Monthly Options Series will be the same as the interval for strike prices for series in that same options class that expire in accordance with the normal monthly expiration cycle.³⁰

By definition, Monthly Options Series can never expire in the same week that a standard options series that expires on the third Friday of a month in the same class expires. The same, however, is not the case with respect to Short Term Options Series or Quarterly Options Series. Therefore, to avoid any confusion in the marketplace, the Exchange proposes to amend Interpretation and Policy .02 to Exchange Rule 404 to provide that the Exchange will not list a Short Term Options Series in a class on a date on which a Monthly Options Series or Quarterly Options Series expires.³¹ Similarly, proposed Interpretation and Policy .13(b) to Exchange Rule 404 provides that no Monthly Options Series may expire on a date that coincides with an expiration date of a Quarterly Options Series in the same index or ETF class. In other words, the Exchange will not list a Short Term Options Series on an index or ETF if a Monthly Options Series on that index or ETF were to expire on the same date, nor will the Exchange list a Monthly Options Series on an index or ETF if a Quarterly Options Series on that ETF were to expire on the same date to prevent the listing of series with concurrent expirations.³²

²⁹ See proposed Interpretation and Policy .13(e) to Exchange Rule 404.

³⁰ See proposed Interpretation and Policy .13(f) to Exchange Rule 404; see also Interpretations and Policies .01 and .04, .06, .08, .09, .10 to Exchange Rule 404 (permissible strike prices for ETF classes) and Interpretations and Policies .05, .07, .11 to Exchange Rule 404 (permissible strike prices for index options).

³¹ The Exchange also proposes to make a non-substantive change to Interpretation and Policy .02 to Exchange Rule 404 to change current references to “monthly options series” to “standard expiration options series” (*i.e.*, series that expire on the third Friday of a month), to eliminate potential confusion. The current references to “monthly options series” are intended to refer to those series that expire on the third Friday of a month, which are generally referred to in the industry as standard expirations.

³² The Exchange notes this would not prevent the Exchange from listing a P.M.-settled Monthly

Options Series added pursuant to proposed Interpretation and Policy .13(a)–(f) to Exchange Rule 404, the Exchange will, on a monthly basis, review series that are outside a range of five strikes above and five strikes below the current price of the underlying index or security, and delist series with no open interest in both the put and the call series having a strike: (i) higher than the highest strike price with open interest in the put and/or call series for a given expiration month; and (ii) lower than the lowest strike price with open interest in the put and/or call series for a given expiration month. Notwithstanding this delisting policy, Member requests to add strikes and/or maintain strikes in Monthly Options Series in series eligible for delisting will be granted. In connection with this delisting policy, if the Exchange identifies series for delisting, the Exchange will notify other options exchanges with similar delisting policies regarding eligible series for delisting and will work with such other exchanges to develop a uniform list of series to be delisted, so as to ensure uniform series delisting of multiply listed Monthly Options Series.

The Exchange believes that Monthly Options Series will provide investors with another flexible and valuable tool to manage risk exposure, minimize capital outlays, and be more responsive to the timing of events affecting the securities that underlie options contracts. The Exchange believes limiting Monthly Options Series to five classes will ensure the addition of these new series will have a negligible impact on the Options Price Reporting Authority (“OPRA”) and the Exchange’s quoting capacity. The Exchange represents it has the necessary systems capacity to support new options series that will result from the introduction of Monthly Options Series.

The Exchange also represents its current surveillance programs will apply to Monthly Options Series and will properly monitor trading in the proposed Monthly Options Series. The Exchange currently lists Quarterly Options Series in certain ETF classes,³³ which expire at the close of business at

Options Series on an index with the same expiration date as an A.M.-settled Short Term Options Series on the same index, both of which may expire on a Friday. The Exchange believes this concurrent listing would provide investors with yet another hedging mechanism and is reasonable given these series would not be identical (unlike if they were both P.M.-settled). This could not occur with respect to ETFs, as all Short Term Options Series on ETFs are P.M.-settled.

³³ The Exchange notes it currently lists quarterly expirations on certain ETF options pursuant to Interpretation and Policy .03 to Exchange Rule 404.

the end of four calendar months (*i.e.*, the end of each calendar quarter), and has not experienced any market disruptions nor issues with capacity. The Exchange’s surveillance programs currently in place to support and properly monitor trading in these Quarterly Options Series, as well as Short Term Options Series and standard expiration series, will apply to the proposed Monthly Options Series. The Exchange believes its surveillances continue to be designed to deter and detect violations of its Rules, including position and exercise limits and possible manipulative behavior, and these surveillances will apply to Monthly Options Series that the Exchange determines to list for trading. Ultimately, the Exchange does not believe the proposed rule change raises any unique regulatory concerns because existing safeguards—such as position and exercise limits (and the aggregation of options overlying the same index or ETF) and reporting requirements—would continue to apply. Additionally, the Exchange notes that this change is substantively identical to a proposal adopted by the Exchange’s affiliate, MIAX Pearl Options.³⁴

Tuesday and Thursday IWM Expirations

Currently, Table 1 in Interpretations and Policies .02 of Exchange Rule 404 specifies each symbol that qualifies as a Short Term Option Daily Expiration.³⁵ Today, Table 1 permits the listing and trading of Monday Short Term Option Daily Expirations and Wednesday Short Term Option Daily Expirations for IWM. At this time, the Exchange proposes to expand the Short Term Option Series Program to permit the listing and trading of no more than a total of two IWM Short Term Option Daily Expirations beyond the current week for each of Monday, Tuesday, Wednesday,

³⁴ See Securities Exchange Release Act No. 99251 (December 29, 2023), 89 FR 819 (January 5, 2024) (SR-PEARL-2023-72).

³⁵ The Exchange may open for trading on any Thursday or Friday that is a business day series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which standard expiration options series, Monthly Options Series, or Quarterly Options Series. Of these series of options, the Exchange may have no more than a total of five Short Term Option Expiration Dates. In addition, the Exchange may open for trading series of options on certain symbols that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (“Short Term Option Daily Expirations”). See Interpretations and Policies .02 of Exchange Rule 404.

and Thursday expirations at one time.³⁶ The listing and trading of Tuesday and Thursday Short Term Option Daily Expirations would be subject to Interpretations and Policies .02 of Exchange Rule 404.

Today, Tuesday Short Term Option Daily Expirations in SPDR S&P 500 ETF Trust (“SPY”) and Invesco QQQ TrustSM (“QQQ”) may open for trading on any Monday or Tuesday that is a business day series of options on the symbols provided in Table 1 that expire at the close of business on each of the next two Tuesdays that are business days and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (“Tuesday Short Term Option Expiration Date”).³⁷ Also, today, Thursday Short Term Option Daily Expirations in SPY and QQQ may open for trading on any Tuesday or Wednesday that is a business day series of options on the symbols provided in Table 1 that expire at the close of business on each of the next two Wednesdays that are business days and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (“Wednesday Short Term Option Expiration Date”).

In the event that options on IWM expire on a Tuesday or Thursday and that Tuesday or Thursday is a business day in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire, the Exchange would skip that week’s listing and instead list the following week; the two weeks would therefore not be consecutive. With this proposal, the

Exchange would be able to open for trading series of options on IWM that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire.³⁸

The interval between strike prices for the proposed Tuesday and Thursday IWM Short Term Option Daily Expirations will be the same as those for Tuesday and Thursday Short Term Option Daily Expirations in SPY and QQQ, applicable to the Short Term Option Series Program.³⁹

Interpretations and Policies .10 of Exchange Rule 404 provides that, notwithstanding any other provision regarding the interval of strike prices of series of options on Exchange-Traded Fund Shares in Exchange Rule 404, the interval of strike prices on options on IWM will be \$1 or greater.⁴⁰ Further, Interpretations and Policies .02(e) of Exchange Rule 404 provides that the strike price interval for Short Term Option Series may be \$0.50 or greater for option classes that trade in \$1 strike price intervals and are in the Short Term Option Series Program. Therefore, the Tuesday and Thursday IWM Short Term Option Daily Expirations will have a \$0.50 strike interval minimum. As is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Tuesday and Thursday IWM Short Term Option Daily Expiration series will be P.M.-settled.

Pursuant to Exchange Rule 100,⁴¹ with respect to the Short Term Option

Series Program, a Tuesday or Thursday expiration series shall expire on the first business day immediately prior to that Tuesday or Thursday, *e.g.*, Monday or Wednesday of that week, respectively, if the Tuesday or Thursday is not a business day.

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.⁴² The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.⁴³ This thirty (30) series restriction would apply to Tuesday and Thursday IWM Short Term Option Daily Expiration series as well.

With this proposal, Tuesday and Thursday IWM Expirations would be treated the same as Tuesday and Thursday Expirations in SPY and QQQ. With respect to standard expiration option series, Short Term Option Daily Expirations may expire in the same week in which standard expiration option series on the same class expire. In the case of Monthly Options Series and Quarterly Options Series, no Short Term Option Series may expire on the same day as an expiration of a Monthly Options Series or Quarterly Options Series, respectively, in the same class.⁴⁴ Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Tuesday and Thursday IWM Short Term Option Daily Expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Tuesday and Thursday Short Term Option Daily Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Tuesday and Thursday for SPY and QQQ and has not experienced any market disruptions nor issues with

³⁶ The Exchange would amend the Tuesday and Thursday expirations for IWM in Table 1 in Interpretations and Policies .02 of Exchange Rule 404 from “0” to “2” to permit Tuesday and Thursday expirations for options on IWM listed pursuant to the Short Term Option Series. The Exchange notes that Cboe Exchange, Inc. (“Cboe”) began listing Tuesday and Thursday expirations in the Russell 2000 Index Weeklys® (“RUTW”) and Mini-Russell 2000 Index Weeklys® (“MRUT”) on January 8, 2024. See Securities Exchange Act Release No. 98621 (September 28, 2023), 88 FR 68896 (October 4, 2023) (SR-CBOE-2023-054) (a Proposed Rule Change To Amend Rule 4.13); Securities Exchange Act Release No. 98957 (November 15, 2023), 88 FR 81130 (November 21, 2023) (SR-CBOE-2023-054) (Order Approving a Proposed Rule Change To Amend Rule 4.13 To Expand the Nonstandard Expirations Program To Include P.M.-Settled Options on Broad-Based Indexes That Expire on Tuesday or Thursday); See also Cboe Global Markets, Inc., Cboe To Offer Daily Expiries For Russell 2000 Index Options Suite, Beginning January 8, 2024, available at <https://ir.cboe.com/news/news-details/2023/Cboe-TO-OFFER-DAILY-EXPIRIES-FOR-RUSSELL-2000-INDEX-OPTIONS-SUITE-BEGINNING-JANUARY-8-2024/default.aspx> (last visit February 14, 2024).

³⁷ See Interpretation and Policy .02 of Exchange Rule 404.

³⁸ Today, IWM may trade on Mondays and Wednesdays in addition to Fridays, as is the case for all options series.

³⁹ See Interpretation and Policy .10 of Exchange Rule 404.

⁴⁰ Options on SPY, iShares Core S&P 500 ETF (“IVV”), QQQ, IWM, and the SPDR Dow Jones Industrial Average ETF (“DIA”) are also subject to Interpretations and Policies .10 of Exchange Rule 404.

⁴¹ The term “Short Term Option Series” means a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Tuesday, Wednesday, Thursday, or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday, respectively. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday. See Exchange Rule 100.

⁴² See Interpretation and Policy .02(c) and (d) of Exchange Rule 404.

⁴³ See Interpretation and Policy .02 of Exchange Rule 404.

⁴⁴ See Interpretation and Policy .02(b) of Exchange Rule 404.

capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Tuesday and Thursday for SPY and QQQ. Additionally, the Exchange notes that this change is substantively identical to a proposal adopted by the Exchange's affiliate, MIAX Pearl Options.⁴⁵

Low Priced Stock Strike Price Interval Program

Currently, Exchange Rule 404, Series of Option Contracts Open for Trading, describes the process and procedures for listing and trading series of options on the Exchange. Rule 404 provides for a \$2.50 Strike Price Program, where the Exchange may select up to 60 option classes on individual stocks for which the interval of strike prices will be \$2.50 where the strike price is greater than \$25.00 but less than \$50.00.⁴⁶ Rule 404 also provides for a \$1 Strike Price Interval Program, where the interval between strike prices of series of options on individual stocks may be \$1.00 or greater provided the strike price is \$50.00 or less, but not less than \$1.00.⁴⁷ Additionally, Rule 404 provides for a \$0.50 Strike Program.⁴⁸ The interval of strike prices of series of options on individual stocks may be \$0.50 or greater beginning at \$0.50 where the strike price is \$5.50 or less, but only for options classes whose underlying security closed at or below \$5.00 in its primary market on the previous trading day and which have national average daily volume that equals or exceeds 1,000 contracts per day as determined by The Options Clearing Corporation during the preceding three calendar months. The listing of \$0.50 strike prices is limited to options classes overlying no more than 20 individual stocks (the "\$0.50 Strike Program") as specifically designated by the Exchange. The Exchange may list \$0.50 strike prices on any other option classes if those classes are specifically designated by other securities exchanges that employ a similar \$0.50 Strike Program under their respective rules. A stock shall remain in the \$0.50 Strike Program until otherwise designated by the Exchange.⁴⁹

The Exchange proposes to adopt a new strike interval program for underlying stocks that are not in the aforementioned \$0.50 Strike Program (or

the Short Term Option Series Program)⁵⁰ and that close below \$2.50 and have an average daily trading volume of at least 1,000,000 shares per day for the three (3) preceding calendar months. The \$0.50 Strike Program considers stocks that have a closing price at or below \$5.00 whereas the Exchange's proposal will consider stocks that have a closing price below \$2.50. Currently, there is a subset of stocks that are not included in the \$0.50 Strike Program as a result of the limitations of that program which provides that the listing of \$0.50 strike prices shall be limited to option classes overlying no more than 20 individual stocks as specifically designated by the Exchange and requires a national average daily volume that equals or exceeds 1,000 contracts per day as determined by The Options Clearing Corporation during the preceding three calendar months.⁵¹ Therefore, the Exchange is proposing to implement a new strike interval program termed the "Low Priced Stock Strike Price Interval Program."

To be eligible for the inclusion in the Low Priced Stock Strike Price Interval Program, an underlying stock must (i) close below \$2.50 in its primary market on the previous trading day; and (ii) have an average daily trading volume of at least 1,000,000 shares per day for the three (3) preceding calendar months. The Exchange notes that there is no limit to the number of classes that will be eligible for inclusion in the proposed program, provided, of course, that the underlying stocks satisfy both the price and average daily trading volume requirements of the proposed program.

The Exchange also proposes that after a stock is added to the Low Priced Stock Strike Price Interval Program, the Exchange may list \$0.50 strike price intervals from \$0.50 up to \$2.00.⁵² For the purpose of adding strikes under the Low Priced Stock Strike Price Interval Program, the "price of the underlying stock" shall be measured in the same way as "the price of the underlying security" as set forth in Rule 404A(b)(1).⁵³ Further, no additional series in \$0.50 intervals may be listed if the underlying stock closes at or above \$2.50 in its primary market. Additional

series in \$0.50 intervals may not be added until the underlying stock again closes below \$2.50.

The Exchange's proposal addresses a gap in strike coverage for low priced stocks. The \$0.50 Strike Program considers stocks that close below \$5.00 and limits the number of option classes listed to no more than 20 individual stocks (provided that the open interest criteria is also satisfied). Whereas, the Exchange's proposal has a narrower focus, with respect to the underlying's stock price, and is targeted to those stocks that close below \$2.50 and does not limit the number of stocks that may participate in the program (provided that the average daily trading volume is also satisfied). The Exchange does not believe that any market disruptions will be encountered with the addition of these new strikes. The Exchange represents that it has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Low Priced Stock Strike Price Interval Program.

The Exchange believes that its average daily trading volume requirement of 1,000,000 shares is a reasonable threshold to ensure adequate liquidity in eligible underlying stocks as it is substantially greater than the thresholds used for listing options on equities, American Depositary Receipts, and broad-based indexes. Specifically, underlying securities with respect to which put or call option contracts are approved for listing and trading on the Exchange must meet certain criteria as determined by the Exchange. One of those requirements is that trading volume (in all markets in which the underlying security is traded) has been at least 2,400,000 shares in the preceding twelve (12) months.⁵⁴ Rule 402(f) provides the criteria for listing options on American Depositary Receipts ("ADRs") if they meet certain criteria and guidelines set forth in Exchange Rule 402. One of the requirements is that the average daily trading volume for the security in the U.S. markets over the three (3) months preceding the selection of the ADR for options trading is 100,000 or more shares.⁵⁵ Finally, the Exchange may trade options on a broad-based index pursuant to Rule 19b-4(e) of the Securities Exchange Act of 1934 provided a number of conditions are satisfied. One of those conditions is that each component security that accounts for at least one percent (1%) of the weight of the index has an average daily

⁴⁵ See Securities Exchange Release Act No. 99997 (April 19, 2024), 89 FR 32480 (April 26, 2024) (SR-PEARL-2024-21).

⁴⁶ See Exchange Rule 404(f).

⁴⁷ See Interpretation and Policy .01(a) of Rule 404.

⁴⁸ See Interpretation and Policy .04 of Rule 404.

⁴⁹ *Id.*

⁵⁰ See Interpretation and Policy .02 of Rule 404.

⁵¹ See Interpretation and Policy .04 of Rule 404.

⁵² While the Exchange may list new strikes on underlying stocks that meet the eligibility requirements of the new program the Exchange will exercise its discretion and will not list strikes on underlying stocks the Exchange believes are subject to imminent delisting from their primary exchange.

⁵³ The Exchange notes this is the same methodology used in the \$1 Strike Price Interval Program. See Interpretation and Policy .01(c)(3) of Rule 404.

⁵⁴ See Exchange Rule 402(b)(4).

⁵⁵ See Exchange Rule 402(f)(3)(ii).

trading volume of at least 90,000 shares during the last six month period.⁵⁶

Additionally, the Exchange proposes to amend the table in Interpretations and Policies .11 of Rule 404 to insert a new column to harmonize the Exchange's proposal to the strike intervals for Short Term Options Series as described in Interpretations and Policies .02 of Rule 404. The table in Interpretations and Policies .11 is intended to limit the intervals between strikes for multiply listed equity options within the Short Term Options Series program that have an expiration date more than twenty-one days from the listing date.⁵⁷ Specifically, the table defines the applicable strike intervals for options on underlying stocks given the closing price on the primary market on the last day of the calendar quarter, and a corresponding average daily volume of the total number of options contracts traded in a given security for the applicable calendar quarter divided by the number of trading days in the applicable calendar quarter.⁵⁸ However, the lowest share price column is titled "Less than \$25." The Exchange now proposes to insert a column titled "Less than \$2.50" and to set the strike interval at \$0.50 for each average daily volume tier represented in the table. Also, the Exchange proposes to amend the heading of the column currently titled "Less than \$25," to "\$2.50 to less than \$25" as a result of the adoption of the new proposed column, "Less than \$2.50." The Exchange believes this change will remove any potential conflict between the strike intervals under the Short Term Options Series Program and those described herein under the Exchange's proposal. Additionally, the Exchange notes that this change is substantively identical to a proposal adopted by the Exchange's affiliate, MIAX Pearl Options.⁵⁹

The Exchange recognizes that this proposal will introduce new strikes in the marketplace and further acknowledges that there has been significant effort undertaken by the industry to curb strike proliferation. This initiative has been spearheaded by the Nasdaq BX who filed an initial proposal focused on the removal, and

prevention of the listing, of strikes which are extraneous and do not add value to the marketplace (the "Strike Interval Proposal").⁶⁰ The Strike Interval Proposal was intended to remove repetitive and unnecessary strike listings across the weekly expiries. Specifically, the Strike Interval Proposal aimed to reduce the density of strike intervals that would be listed in the later weeks, by creating limitations for intervals between strikes which have an expiration date more than twenty-one days from the listing date.⁶¹ The Strike Interval Proposal took into account OCC customer-cleared volume, using it as an appropriate proxy for demand. The Strike Interval Proposal was designed to maintain strikes where there was customer demand and eliminate strikes where there wasn't. At the time of its proposal Nasdaq BX estimated that the Strike Interval Proposal would reduce the number of strikes it listed by 81,000.⁶² The Exchange proposes to amend the table to define the strike interval at \$0.50 for underlying stocks with a share price of less than \$2.50. The Exchange believes this amendment will harmonize the Exchange's proposal with the Strike Interval Proposal described above.

The Exchange recognizes that its proposal will moderately increase the total number of option series available on the Exchange. However, the Exchange's proposal is designed to only add strikes where there is investor demand⁶³ which will improve market quality. Under the requirements for the Low Priced Stock Strike Price Interval Program as described herein, the Exchange determined that as of August 9, 2023, 106 symbols met the proposed criteria. Of those symbols 36 are currently in the \$1 Strike Price Interval Program with \$1.00 and \$2.00 strikes listed. Under the Exchange's proposal the Exchange would add the \$0.50 and \$1.50 strikes for these symbols for the current expiration terms. The remaining 70 symbols eligible under the

Exchange's proposal would have \$0.50, \$1.00, \$1.50 and \$2.00 strikes added to their current expiration terms.

Therefore, for the 106 symbols eligible for the Low Priced Stock Strike Price Interval Program a total of approximately 3,250 options would be added. As of August 9, 2023, the Exchange listed 1,106,550 options, therefore the additional options that would be listed under this proposal would represent a very minor increase of 0.294% in the number of options listed on the Exchange.

The Exchange does not believe that its proposal contravenes the industry's efforts to curtail unnecessary strikes. The Exchange's proposal is targeted to only underlying stocks that close at less than \$2.50 and that also meet the average daily trading volume requirement. Additionally, because the strike increment is \$0.50 there are only a total of four strikes that may be listed under the program (\$0.50, \$1.00, \$1.50, and \$2.00) for an eligible underlying stock. Finally, if an eligible underlying stock is in another program (e.g., the \$0.50 Strike Program or the \$1 Strike Price Interval Program) the number of strikes that may be added is further reduced if there are pre-existing strikes as part of another strike listing program. Therefore, the Exchange does not believe that it will list any unnecessary or repetitive strikes as part of its program, and that the strikes that will be listed will improve market quality and satisfy investor demand.

The Exchange further believes that the Options Price Reporting Authority ("OPRA"), has the necessary systems capacity to handle any additional messaging traffic associated with this proposed rule change.⁶⁴ The Exchange also believes that Members will not have a capacity issue as a result of the proposed rule change. Finally, the Exchange believes that the additional options will serve to increase liquidity, provide additional trading and hedging opportunities for all market participants, and improve market quality.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁶⁵ Specifically, the Exchange believes that its proposed rule change is consistent with Section

⁵⁶ See Exchange Rule 1802(d)(7).

⁵⁷ See Securities Exchange Release Act No. 91125 (February 21, 2021), 86 FR 10375 (February 19, 2021) (SR-BX-2020-032) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Amend Options 4, Section 5, To Limit Short Term Options Series Intervals Between Strikes That Are Available for Quoting and Trading on BX).

⁵⁸ *Id.*

⁵⁹ See Securities Exchange Release Act No. 99034 (November 29, 2023), 88 FR 84379 (December 5, 2023) (SR-PEARL-2023-66).

⁶⁰ See Securities Exchange Act No. 91225 (February 12, 2021), 86 FR 10375 (February 12, 2021) (SR-BX-2020-032) (BX Strike Approval Order); see also BX Options Strike Proliferation Proposal (February 25, 2021) available at: <https://www.nasdaq.com/solutions/bx-options-strike-proliferation-proposal>.

⁶¹ See Securities Exchange Act No. 91225 (February 12, 2021), 86 FR 10375 (February 12, 2021) (SR-BX-2020-032).

⁶² See *id.*

⁶³ See proposed Interpretation and Policy .12(a) of Rule 404 which requires that an underlying stock have an average daily trading volume of 1,000,000 shares for the three (3) preceding months to be eligible for inclusion in the Low Priced Stock Strike Price Interval Program. The Exchange continuously evaluates stocks that may be eligible for inclusion in the Program.

⁶⁴ The Exchange conducts periodic testing with OPRA to ensure performance and capacity targets are being met.

⁶⁵ 15 U.S.C. 78f(b).

6(b)(5)⁶⁶ requirements in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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.

Wednesday Expirations

Similar to Wednesday expirations in SPY, QQQ, and IWM, the proposal to permit Wednesday ETP Expirations, subject to the proposed limitation of two expirations beyond the current week, would protect investors and the public interest by providing the investing public and other market participants more choice and flexibility to closely tailor their investment and hedging decisions in these options and allow for a reduced premium cost of buying portfolio protection, thus allowing them to better manage their risk exposure.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed option expirations, in the same way that it monitors trading in the current Short Term Option Series for Wednesday SPY, QQQ and IWM expirations. The Exchange also represents that it has the necessary system capacity to support the new expirations. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of these option expirations. As discussed above, the Exchange believes that its proposal is a modest expansion of weekly expiration dates for GLD, SLV, USO, UNG, and TLT given that it will be limited to two Wednesday expirations beyond the current week. Lastly, the Exchange believes its proposal will not be a strain on liquidity providers because of the multi-class nature of GLD, SLV, USO, UNG, and TLT and the available hedges in highly correlated instruments, as described above.

The Exchange believes that the proposal is consistent with the Act as the proposal would overall add a small number of Wednesday ETP Expirations by limiting the addition of two Wednesday expirations beyond the current week. The addition of Wednesday ETP Expirations would remove impediments to and perfect the mechanism of a free and open market by

encouraging Market Makers to continue to deploy capital more efficiently and improve market quality. The Exchange believes that the proposal will allow market participants to expand hedging tools and tailor their investment and hedging needs more effectively in USO, UNG, GLD, SLV, and TLT as these funds are most likely to be utilized by market participants to hedge the underlying asset classes.

Similar to Wednesday SPY, QQQ, and IWM expirations, the introduction of Wednesday ETP Expirations is consistent with the Act as it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Wednesday ETP Expirations will allow market participants to purchase options on USO, UNG, GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively, thus allowing them to better manage their risk exposure. Today, the Exchange lists Wednesday SPY, QQQ, and IWM Expirations.⁶⁷

The Exchange believes the Short Term Option Series Program has been successful to date and that Wednesday ETP Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging. There are no material differences in the treatment of Wednesday SPY, QQQ, and IWM expirations compared to the proposed Wednesday ETP Expirations. Given the similarities between Wednesday SPY, QQQ, and IWM expirations and the proposed Wednesday ETP Expirations, the Exchange believes that applying the provisions in Policy .02 of Rule 404 that currently apply to Wednesday SPY, QQQ, and IWM expirations is justified. For example, the Exchange believes that allowing Wednesday ETP Expirations and monthly ETP expirations in the same week will benefit investors and minimize investor confusion by providing Wednesday ETP Expirations in a continuous and uniform manner. The Exchange notes that this change is substantively identical to a proposal adopted by the Exchange's affiliate, MIAx Pearl Options.⁶⁸

Monthly Options Series

The Exchange believes the introduction of Monthly Options Series will remove impediments to and perfect the mechanism of a free and open market and a national market system by expanding hedging tools available to market participants. The Exchange believes the proposed monthly expirations will allow market participants to transact in the index and ETF options listed pursuant to the proposed rule change based on their timings as needed and allow them to tailor their investment and hedging needs more effectively. Further, the Exchange believes the availability of Monthly Options Series would protect investors and the public interest by providing investors with more flexibility to closely tailor their investment and hedging decisions in these options, thus allowing them to better manage their risk exposure.

The Exchange believes the Quarterly Options Series Program has been successful to date and the proposed Monthly Options Series program simply expands the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur at month's end in the same way the Quarterly Options Series Program has expanded the landscape of hedging for quarter-end news. Monthly Options Series will also complement Short Term Options Series, which will allow investors to hedge risk against events that occur throughout a month. The Exchange believes the availability of additional expirations should create greater trading and hedging opportunities for investors, as well as provide investors with the ability to tailor their investment objectives more effectively.

The Exchange notes the proposed terms of Monthly Options Series, including the limitation to five index and ETF option classes, are substantively the same as the current terms of Quarterly Options Series.⁶⁹ Quarterly Options Series expire on the last business day of a calendar quarter, which is the last business day of every third month. The proposed Monthly Options Series would fill the gaps between Quarterly Options Series expirations by permitting series to expire on the last business day of every month, rather than every third month. The proposed Monthly Options Series may be listed in accordance with the same terms as Quarterly Options Series, including permissible strikes. As is the

⁶⁶ 15 U.S.C. 78f(b)(5).

⁶⁷ See Interpretation and Policy .02 of Rule 404.

⁶⁸ See *supra* note 20.

⁶⁹ Compare proposed Interpretation and Policy .13 of Exchange Rule 404 to Interpretation and Policy .03 of Exchange Rule 404.

case with Quarterly Options Series, no Short Term Options Series may expire on the same day as a Monthly Options Series. Similarly, as proposed, no Monthly Options Series may expire on the same day as a Quarterly Options Series. The Exchange believes preventing listing series with concurrent expirations in a class will eliminate potential investor confusion and thus protect investors and the public interest. Given that Quarterly Options Series the Exchange currently lists are essentially Monthly Options Series that can expire at the end of only certain calendar months, the Exchange believes it is reasonable to list Monthly Options Series in accordance with the same terms, as it will promote just and equitable principles of trade. The Exchange believes limiting Monthly Options Series to five classes will ensure the addition of these new series will have a negligible impact on the Exchange and OPRA's quoting capacity. The Exchange represents it has the necessary systems capacity to support new options series that will result from the introduction of Monthly Options Series.

The Exchange also represents its current surveillance programs will apply to Monthly Options Series and will properly monitor trading in the proposed Monthly Options Series. As mentioned above, the Exchange currently trades Quarterly Options Series in certain ETF classes, which expire at the close of business at the end of three calendar months (*i.e.*, the end of each calendar quarter), and has not experienced any market disruptions nor issues with capacity. The Exchange's surveillance programs currently in place to support and properly monitor trading in these Quarterly Options Series, as well as Short Term Options Series, and standard expiration series, will apply to the proposed Monthly Options Series. The Exchange believes its surveillances continue to be designed to deter and detect violations of its Rules, including position and exercise limits and possible manipulative behavior, and these surveillances will apply to Monthly Options Series that the Exchange determines to list for trading. Ultimately, the Exchange does not believe the proposed rule change raises any unique regulatory concerns because existing safeguards—such as position and exercise limits (and the aggregation of options overlying the same ETF or index) and reporting requirements—would continue to apply. The Exchange notes that this change is substantively identical to a proposal adopted by the

Exchange's affiliate, MIAX Pearl Options.⁷⁰

Tuesday and Thursday IWM Expirations

The Exchange believes that IWM Tuesday and Thursday Short Term Daily Expirations will allow market participants to purchase IWM options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively. Further, the proposal to permit Tuesday and Thursday Short Term Daily Expirations for options on IWM listed pursuant to the Short Term Option Series Program, subject to the proposed limitation of two nearest expirations, would protect investors and the public interest by providing the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in IWM options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that Tuesday and Thursday IWM Short Term Daily Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging. Similarly, the Exchange believes Tuesday and Thursday IWM Short Term Daily Expirations should create greater trading and hedging opportunities and provide customers the flexibility to tailor their investment objectives more effectively. The Exchange currently lists SPY and QQQ Tuesday and Thursday Short Term Daily Expirations.⁷¹

With this proposal, Tuesday and Thursday IWM Expirations would be treated similar to existing Tuesday and Thursday SPY and QQQ Expirations and would expire in the same week that standard monthly options expire on Fridays.⁷² Further, today, Tuesday and Thursday Short Term Option Daily Expirations do not expire on a business day in which monthly options series or Quarterly Options Series expire.⁷³ Today, all Short Term Option Daily Expirations expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days

in which monthly options series or Quarterly Options Series expire. There are no material differences in the treatment of Tuesday and Thursday SPY and QQQ Short Term Daily Expirations as compared to the proposed Tuesday and Thursday IWM Short Term Daily Expirations.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed Tuesday and Thursday IWM Short Term Daily Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Tuesday and Thursday SPY and QQQ Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Tuesday and Thursday IWM Short Term Daily Expirations. The Exchange notes that this change is substantively identical to a proposal adopted by the Exchange's affiliate, MIAX Pearl Options.⁷⁴

Low Priced Stock Strike Price Interval Program

The Exchange believes its proposal to adopt a new Low Priced Stock Strike Price Interval Program promotes just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system as the Exchange has identified a subset of stocks that are trading under \$2.50 and do not have meaningful strikes available. For example, on August 9, 2023, symbol SOND closed at \$0.50 and had open interest of over 44,000 contracts and an average daily trading volume in the underlying stock of over 1,900,000 shares for the three preceding calendar months.⁷⁵ Currently the lowest strike listed is for \$2.50, making the lowest strike 400% away from the closing stock price. Another symbol, CTXR, closed at \$0.92 on August 9, 2023, and had open interest of over 63,000 contracts and an average daily trading volume in the underlying stock of over 1,900,000 shares for the three preceding calendar months.⁷⁶ Similarly, the lowest strike listed is for \$2.50, making the lowest strike more than 170% away from the closing stock price. Currently, such products have no at-the-money options, as well as no in-the-

⁷⁰ See *supra* note 33.

⁷¹ See Interpretation and Policy .02 of Exchange Rule 404.

⁷² See Interpretation and Policy .02(b) of Exchange Rule 404.

⁷³ See Interpretation and Policy .02 of Exchange Rule 404.

⁷⁴ See *supra* note 44.

⁷⁵ See Yahoo! Finance, <https://finance.yahoo.com/quote/SOND/history?p=SOND> (last visited August 10, 2023).

⁷⁶ See Yahoo! Finance, <https://finance.yahoo.com/quote/CTXR/history?p=CTXR> (last visited August 10, 2023).

money calls or out-of-the-money puts. The Exchange's proposal will provide additional strikes in \$0.50 increments from \$0.50 up to \$2.00 to provide more meaningful trading and hedging opportunities for this subset of stocks. Given the increased granularity of strikes as proposed under the Exchange's proposal out-of-the-money puts and in-the-money calls will be created. The Exchange believes this will allow market participants to tailor their investment and hedging needs more effectively.

The Exchange believes its proposal promotes just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest by adding strikes that improves market quality and satisfies investor demand. The Exchange does not believe that the number of strikes that will be added under the program will negatively impact the market. Additionally, the proposal does not run counter to the efforts undertaken by the industry to curb strike proliferation as that effort focused on the removal and prevention of extraneous strikes where there was no investor demand. The Exchange's proposal requires the satisfaction of an average daily trading volume threshold in addition to the underlying stock closing at a price below \$2.50 to be eligible for the program. The Exchange believes that the average daily trading volume threshold of the program ensures that only strikes with investor demand will be listed and fills a gap in strike interval coverage as described above. Further, being that the strike interval is \$0.50, there are only a maximum of four strikes that may be added (\$0.50, \$1.00, \$1.50, and \$2.00). Therefore, the Exchange does not believe that its proposal will undermine the industry's efforts to eliminate repetitive and unnecessary strikes in any fashion.

The Exchange believes that its average daily trading volume threshold promotes just and equitable principles of trade and removes impediments to and perfects the mechanisms of a free and open market and a national market system and, in general, protects investors and the public interest as it is designed to permit only those stocks with demonstrably high levels of trading activity to participate in the program. The Exchange notes that its average daily trading volume requirement is substantially greater than the average daily trading requirement currently in place on the Exchange for options on

equity underlyings,⁷⁷ ADRs,⁷⁸ and broad-based indexes.⁷⁹

The Exchange believes that the proposed rule change is consistent with Section 6(b)(1) of the Act, which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and the rules and regulations thereunder, and the rules of the Exchange. The proposed rule change allows the Exchange to respond to customer demand to provide meaningful strikes for low priced stocks. The Exchange does not believe that the proposed rule would create any capacity issue or negatively affect market functionality. Additionally, the Exchange represents that it has the necessary systems capacity to support the new options series and handle additional messaging traffic associated with this proposed rule change. The Exchange also believes that its Members will not experience any capacity issues as a result of this proposal. In addition, the Exchange represents that it believes that additional strikes for low priced stocks will serve to increase liquidity available as well and improve price efficiency by providing more trading opportunities for all market participants. The Exchange believes that the proposed rule change will benefit investors by giving them increased opportunities to execute their investment and hedging decisions.

Finally, the Exchange believes its proposal is designed to prevent fraudulent and manipulative acts and practices as options may only be listed on underlyings that satisfy the listing requirements of the Exchange as described in Exchange Rule 402, Criteria for Underlying Securities. Specifically, Rule 402 requires that underlying securities for which put or call option contracts are approved for listing and trading on the Exchange must meet the following criteria: (1) the security must be registered and be an "NMS stock" as defined in Rule 600 of Regulation NMS under the Exchange Act; (2) the security shall be characterized by a substantial number of outstanding shares that are widely held and actively traded.⁸⁰ Additionally, Rule 402 provides that absent exceptional circumstances, an underlying security will not be selected for options transactions unless: (1) there are a minimum of seven (7) million shares of the underlying security which are owned by persons other than those required to report their stock holdings under Section 16(a) of the Exchange

Act; (2) there are a minimum of 2,000 holders of the underlying security; (3) the issuer is in compliance with any applicable requirements of the Exchange Act; and (4) trading volume (in all markets in which the underlying security is traded) has been at least 2,400,000 shares in the preceding twelve (12) months.⁸¹ The Exchange's proposal does not impact the eligibility of an underlying stock to have options listed on it, but rather addresses only the listing of new additional option classes on an underlying listed on the Exchange in accordance to the Exchange's listings rules. As such, the Exchange believes that the listing requirements described in Exchange Rule 402 address potential concerns regarding possible manipulation. Additionally, in conjunction with the proposed Average Daily Volume requirement described herein, the Exchange believes any possible market manipulation is further mitigated. The Exchange notes that this change is substantively identical to a proposal adopted by the Exchange's affiliate, MIAX Pearl Options.⁸²

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.

Wednesday Expirations

While the proposal will expand the Short Term Options Expirations to allow Wednesday ETP Expirations to be listed on the Exchange, the Exchange believes that this limited expansion for Wednesday expirations for options on USO, UNG, GLD, SLV, and TLT will not impose an undue burden on competition; rather, it will meet customer demand. The Exchange believes that market participants will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in USO, UNG, GLD, SLV, and TLT given multi-class nature of these products and the available hedges in highly correlated instruments, as described above. Similar to Wednesday SPY, QQQ, and IWM expirations, the introduction of Wednesday ETP Expirations does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio

⁷⁷ See *supra* note 53.

⁷⁸ See *supra* note 54.

⁷⁹ See *supra* note 55.

⁸⁰ See Exchange Rule 402(a)(1) and (2).

⁸¹ See Exchange Rule 402(b)(1), (2), (3) and (4).

⁸² See *supra* note 58.

protection. The Exchange believes that Wednesday ETP Expirations will allow market participants to purchase options on USO, UNG, GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Wednesday ETP Expirations. Further, the Exchange does not believe the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal.

Monthly Options Series

The Exchange does not believe the proposed rule change to list Monthly Options Series will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as any Monthly Options Series the Exchange lists for trading will be available in the same manner for all market participants who wish to trade such options. The Exchange notes the proposed terms of the Monthly Options Series, including the limitation to five index and ETF option classes, are substantively the same as the current terms of Quarterly Options Series.⁸³ Quarterly Options Series expire on the last business day of a calendar quarter, which is the last business day of every third month, making the concept of Monthly Options Series in a limited number of index and ETF options not novel. The proposed Monthly Options Series will fill the gaps between Quarterly Options Series expirations by permitting series to expire on the last business day of every month, rather than every third month. The proposed Monthly Options Series may be listed in accordance with the same terms as Quarterly Options Series, including permissible strikes. Monthly Options Series will trade on the Exchange in the same manner as other options in the same class.

The Exchange does not believe the proposed rule change to list Monthly Options Series will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, as nothing prevents other options exchanges from proposing similar rules. As discussed above, the proposed rule change would permit listing of Monthly Options Series in five index or ETF options, as well as any other classes that other exchanges

may list under similar programs. To the extent that the availability of Monthly Options Series makes the Exchange a more attractive marketplace to market participants at other exchanges, market participants are free to elect to become market participants on the Exchange.

The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition. Similar to Short Term Options Series and Quarterly Options Series, the Exchange believes the introduction of Monthly Options Series will not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants. The Exchange believes Monthly Options Series will allow market participants to purchase options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

Consequently, the Exchange does not believe that the proposed change implicates competition at all.

Tuesday and Thursday IWM Expirations

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.

Similar to SPY and QQQ Tuesday and Thursday Expirations, the introduction of IWM Tuesday and Thursday Short Term Daily Expirations does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that IWM Tuesday and Thursday Short Term Daily Expirations will allow market participants to purchase IWM options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively. The Exchange notes that Cboe began listing Tuesday and Thursday expirations in RUTW and MRUT on January 8, 2024.⁸⁴

⁸⁴ See Securities Exchange Act Release No. 98621 (September 28, 2023), 88 FR 68896 (October 4, 2023) (SR-CBOE-2023-054) (a Proposed Rule Change To Amend Rule 4.13); Securities Exchange Act Release No. 98957 (November 15, 2023), 88 FR 81130 (November 21, 2023) (SR-CBOE-2023-054) (Order Approving a Proposed Rule Change To Amend Rule 4.13 To Expand the Nonstandard Expirations Program To Include P.M.-Settled Options on Broad-Based Indexes That Expire on Tuesday or Thursday); See also Cboe Global Markets, Inc., Cboe To Offer Daily Expiries For Russell 2000 Index Options Suite, Beginning January 8, 2024, available at <https://ir.cboe.com/news/news-details/2023/Cboe-TO-OFFER-DAILY-EXPIRIES-FOR-RUSSELL-2000-INDEX-OPTIONS-SUITE-BEGINNING-JANUARY-8-2024/default.aspx> (last visited April 25, 2024).

The Exchange does not believe the proposal will impose any burden on inter-market competition, as nothing prevents other options exchanges from proposing similar rules to list and trade Short-Term Option Series with Tuesday and Thursday Short Term Daily Expirations. The Exchange notes that having Tuesday and Thursday IWM expirations is not a novel proposal, as SPY and QQQ Tuesday and Thursday Expirations are currently listed on the Exchange.⁸⁵

Further, the Exchange does not believe the proposal will impose any burden on intramarket competition, as all market participants will be treated in the same manner under this proposal.

Low Priced Stock Strike Price Interval Program

The Exchange does not believe that its proposed rule change will impose any burden on intra-market competition as the Rules of the Exchange apply equally to all Members of the Exchange and all Members may trade the new proposed strikes if they so choose. Specifically, the Exchange believes that investors and market participants will significantly benefit from the availability of finer strike price intervals for stocks priced below \$2.50, which will allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe that its proposed rule change will impose any burden on inter-market competition, as nothing prevents other options exchanges from proposing similar rules to list and trade options on low priced stocks. Rather the Exchange believes that its proposal will promote inter-market competition, as the Exchange's proposal will result in additional opportunities for investors to achieve their investment and trading objectives, to the benefit of investors, market participants, and the marketplace in general.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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

⁸⁵ See Interpretation and Policy .02 of Exchange Rule 404.

⁸³ See Interpretation and Policy .03 to Exchange Rule 404.

operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act⁸⁶ and Rule 19b-4(f)(6) thereunder.⁸⁷

A proposed rule change filed under Rule 19b-4(f)(6)⁸⁸ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),⁸⁹ 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 proposed rule change may become operative upon filing. The Exchange states that the waiver of the 30-day operative delay would ensure fair competition among the exchanges by allowing the Exchange to permit the listing of two Wednesday expirations for options on ETPs. The Exchange also states that waiver of the operative delay would allow the Exchange to immediately offer an additional market to investors to trade Monthly Options Series and to compete effectively with at least one other exchange that currently lists and trades the same series. The Exchange further states that waiver of the operative delay would allow the Exchange to immediately adopt the strike interval program and list strikes on the Exchange in accordance with this proposal, and thereby provide opportunities for investors to select the venue on which to trade these strikes. In addition, the Exchange states that the changes contained in the proposal are substantively identical to changes that have been adopted by the Exchange's affiliate, MIAx Pearl Options.⁹⁰

For these reasons, and because the proposal does not raise any new or novel legal or regulatory issues, the Commission finds that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the

proposed rule change operative upon filing.⁹¹

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 under Section 19(b)(2)(B)⁹² to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-SAPPHIRE-2024-02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-SAPPHIRE-2024-02. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public

Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-SAPPHIRE-2024-02 and should be submitted on or before September 3, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁹³

Sherry R. Haywood,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100666; File No. SR-NYSEAMER-2024-45]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing of Proposed Rule Change To Amend Rule 915 To Permit the Listing and Trading of Options on the Bitwise Ethereum ETF, the Grayscale Ethereum Trust, the Grayscale Ethereum Mini Trust, and Any Trust That Holds Ether

August 7, 2024.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ notice is hereby given that on July 23, 2024, NYSE American LLC ("NYSE American" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 915 to permit the listing and trading of options on the Bitwise

⁸⁶ 15 U.S.C. 78s(b)(3)(A)(iii).

⁸⁷ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

⁸⁸ 17 CFR 240.19b-4(f)(6).

⁸⁹ 17 CFR 240.19b-4(f)(6)(iii).

⁹⁰ See *supra* note 11 and accompanying text.

⁹¹ For purposes only of waiver the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

⁹² 15 U.S.C. 78s(b)(2)(B).

⁹³ 17 CFR 200.30-3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

Ethereum ETF, the Grayscale Ethereum Trust (ETH), the Grayscale Ethereum Mini Trust, and any trust that holds ether. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 915 (Criteria for Underlying Securities), Commentary .10, to allow the Exchange to list and trade options on the Bitwise Ethereum ETF, the Grayscale Ethereum Trust (ETH), the Grayscale Ethereum Trust Mini, and any trust that holds [sic] (collectively, "Ether ETPs").⁴

Commentary .06 to Rule 915 (hereinafter "Commentary .06") provides that, subject to certain other criteria set forth in Rule 915, securities deemed appropriate for options trading include ETFs that represent certain types of interests,⁵ including interests in

certain specific trusts that hold financial instruments, money market instruments, or precious metals (which are deemed commodities).

Ether ETPs, including the Bitwise Ethereum ETF, the Grayscale Ethereum Trust (ETH), and the Grayscale Ethereum Mini Trust are ether-backed commodity ETPs structured as trusts.⁶

Similar to any ETFs currently deemed appropriate for options trading under Rule 915, the investment objective of an Ether ETP trust is for its shares to reflect the performance of ether (less the expenses of the trust's operations), offering investors an opportunity to gain exposure to ether without the complexities of ether delivery. As is the case for ETFs currently deemed

portfolios of securities and/or financial instruments including, but not limited to, stock index futures contracts, options on futures, options on securities and indexes, equity caps, collars and floors, swap agreements, forward contracts, repurchase agreements and reverse purchase agreements (the "Financial Instruments"), and money market instruments, including, but not limited to, U.S. government securities and repurchase agreements (the "Money Market Instruments") comprising or otherwise based on or representing investments in indexes or portfolios of securities and/or Financial Instruments and Money Market Instruments (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities and/or Financial Instruments and Money Market Instruments); interests in a trust or similar entity that holds a specified non-U.S. currency deposited with the trust or similar entity when aggregated in some specified minimum number may be surrendered to the trust by the beneficial owner to receive the specified non-U.S. currency and pays the beneficial owner interest and other distributions on deposited non-U.S. currency, if any, declared and paid by the trust ("Currency Trust Shares"); commodity pool interests principally engaged, directly or indirectly, in holding and/or managing portfolios or baskets of securities, commodity futures contracts, options on commodity futures contracts, swaps, forward contracts and/or options on physical commodities and/or non-U.S. currency ("Commodity Pool Units"); or represents an interest in a registered investment company ("Investment Company") organized as an open-end management investment company or similar entity, that invests in a portfolio of securities selected by the Investment Company's investment adviser consistent with the Investment Company's investment objectives and policies, which is issued in a specified aggregate minimum number in return for a deposit of a specified portfolio of securities and/or a cash amount with a value equal to the next determined net asset value ("NAV"), and when aggregated in the same specified minimum number, may be redeemed at a holder's request, which holder will be paid a specified portfolio of securities and/or cash with a value equal to the next determined NAV ("Managed Fund Share"); provided that all of the conditions listed in Rules 915 and 916 are met.

⁶ See *supra* note 4 (regarding order approving rule changes to list and trade shares of "Ether-Based Exchange-Traded Products" pursuant to Rule 8.201–E(c)(1) (Commodity-Based Trust Shares), including Bitwise Ethereum ETF, Grayscale Ethereum, and the Grayscale Ethereum Trust Mini. For a complete description of the Bitwise Ethereum ETF, the Grayscale Ethereum Trust (ETH), and the Grayscale Ethereum Mini Trust see SR–NYSEARCA–2024–31, SR–NYSEARCA–2023–70, and SR–NYSEARCA–2024–44, respectively.

appropriate for options trading, a [sic] Ether ETP's shares represent units of fractional undivided beneficial interest in the trust, the assets of which consist principally of ether and are designed to track ether or the performance of the price of ether and offer access to the ether market.⁷

Ether ETPs provide investors with cost efficient alternatives that allow a level of participation in the ether market through the securities market. The primary substantive difference between Ether ETPs and ETFs currently deemed appropriate for options trading are that ETFs may hold securities, certain financial instruments, and specified precious metals (which are commodities), while Ether ETPs hold ether (which is also deemed a commodity).⁸ The Exchange believes that offering options on Ether ETPs, including the Bitwise Ethereum ETF, the Grayscale Ethereum Trust (ETH), and the Grayscale Ethereum Trust Mini, will benefit investors by providing them with an additional, relatively lower cost investing tool to gain exposure to spot ether as well as a hedging vehicle to meet their investment needs in connection with ether products and positions.

Ether ETPs will trade in the same manner as options on other ETFs (including commodities ETFs) on the Exchange.⁹ In particular, and as detailed below, Exchange rules that apply to the listing and trading of all options on ETFs on the Exchange, including, for example, rules that govern listing criteria, expirations, exercise prices, minimum increments, position and exercise limits, margin requirements, customer accounts and trading halt procedures, will likewise apply to the listing and trading of options on Ether ETPs on the Exchange.

The Exchange's initial listing standards for ETFs on which options

⁷ The trust may include minimal cash. See e.g., Securities Exchange Act Release No. 100213 (May 22, 2024), 89 FR 46533, 46534 (May 29, 2024) (SR–NYSEARCA–2024–31) (providing that, for the Bitwise Ethereum ETF, the "only assets will be ether and cash").

⁸ Similar to other commodity ETFs in which options may be listed on the Exchange pursuant to Rule 915, Commentary .10 (e.g., SPDR Gold Trust, the iShares COMEX Gold Trust, the iShares Silver Trust, the ETFs Gold Trust, the ETFs Silver Trust, the ETFs Palladium Trust, or the ETFs Platinum Trust), each of the Bitwise Ethereum ETF, the Grayscale Ethereum Trust (ETH), and the Grayscale Ethereum Trust Mini, are trusts that essentially offer analogous objectives and benefits to investors.

⁹ As with any ETF that trades on the Exchange, the Exchange would not list and trade options on Ether ETPs, including the Bitwise Ethereum ETF, the Grayscale Ethereum Trust (ETH), and the Grayscale Ethereum Trust Mini, unless such instruments satisfied all applicable criteria in Rules 915 and 916, as applicable.

⁴ See proposed Commentary .10 to Rule 915. The Commission recently approved rule changes to list and trade shares of Ether-Based Trust Shares pursuant to Rule 8.201–E(c)(1) (Commodity-Based Trust Shares), including the Bitwise Ethereum ETF and the Grayscale Ethereum Trust (ETH) and the Grayscale Ethereum Trust Mini. See Securities Exchange Act Release Nos. 100224 (May 23, 2024), 89 FR 3008 (May 30, 2024) (SR–NYSEARCA–2023–70; SR–NYSEARCA–2024–31) (order approving the listing and trading of, among other Ether-Based Exchange-Traded Products, the Bitwise Ethereum ETF and the Grayscale Ethereum Trust (ETH)); and 100541 (July 17, 2024) [FR] [sic] (SR–NYSEARCA–2024–44) (order approving the listing and trading of, among others, the Grayscale Ethereum Trust Mini).

⁵ See Commentary .06, which permits options trading on ETFs that are traded on a national securities exchange and are defined as an "NMS stock" in Rule 600(b)(55) of Regulation NMS, that represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that hold

may be listed and traded on the Exchange will apply to Ether ETPs. The Exchange expects Ether ETPs to satisfy the initial listing standards as set forth in Rule 915(a) (generally) and Commentary .06 (which applies to ETFs specifically). Pursuant to Rule 915(a), a security (which includes ETFs) on which options may be listed and traded on the Exchange must be duly registered (with the Commission) and be an NMS stock (as defined in Rule 600 of Regulation NMS under the Act,) and be characterized by a substantial number of outstanding shares that are widely held and actively traded. In addition, Commentary .06 requires that ETFs must either (1) meet the criteria and standards set forth in Commentary .01 to Rule 915,¹⁰ or (2) the ETFs are available for creation and redemption each business day as set forth in Commentary .06(a)(ii).

Options on Ether ETPs will also be subject to the Exchange's continued listing standards set forth in Commentary .07 to Rule 916 which provides that options on ETFs may be subject to the suspension of opening transactions as follows: (1) the ETFs no longer meets the terms of Commentary .01 to Rule 916; (2) following the initial twelve-month period beginning upon the commencement of trading of the ETFs, there are fewer than 50 record and/or beneficial holders of the ETFs for 30 or more consecutive trading days; (3) the value of the underlying commodity is no longer calculated or available; or (4) such other event occurs or condition exists that in the opinion of the Exchange makes further dealing on the Exchange inadvisable. Additionally, ETFs will be deemed to not meet the requirements for continued approval, and the Exchange will not open for trading any additional series of option contracts covering the ETF if such security ceases to be an "NMS stock" as provided for Commentary .01(5) to Rule 915 or the ETF is halted from trading on its primary market.¹¹

¹⁰ See Commentary .01 to Rule 915, which sets forth minimum requirements for the underlying security which include, but are not limited to, 7,000,000 underlying shares, 2,000 shareholders, and trading volume of 2,400,000 shares over the preceding twelve months. Additionally, the rule requires that the market price per share of the underlying security must be at least \$7.50 for the majority of business days during the three calendar months preceding the date of selection of an option class. For underlying securities that are deemed Covered Securities, as defined under Section 18(b)(1)(A) of the Securities Act of 1933, the closing market price of the underlying security must be at least \$3.00 per share for the previous three consecutive business days prior to the date of selection of an option class.

¹¹ See Commentary .07 to Rule 916. For avoidance of doubt and consistent with this

Options on Ether ETPs listed pursuant to proposed Commentary .10 to Rule 915 would be physically settled contracts with American-style exercise¹² and would be included within the definition of securities as such terms are used in the Exchange's rules and, as such, would be subject to Exchange rules and procedures that currently govern the trading of securities on the Exchange, including Exchange rules governing the trading of equity options. Furthermore, the Exchange's rules pertaining to position and exercise limits or margin shall apply to options on Ether ETPs.

Specifically, consistent with Rule 903, which governs the opening of options series on a specific underlying security (including ETFs), the Exchange will open at least one expiration month for options on Ether ETPs and may also list series of options on Ether ETPs for trading on a weekly¹³ or quarterly¹⁴ basis. The Exchange may also list long-term equity option series ("LEAPS")¹⁵ that expire from twelve to thirty-nine months from the time they are listed.

Pursuant to Rule 903, Commentary .05(a), which governs strike prices of series of options on ETFs, the interval between strike prices of series of options on ETFs approved for options trading (per Commentary .06) will be fixed at a price per share which is reasonably close to the price per share at which the underlying security is traded in the primary market at or about the same time such series of options is first open for trading on the Exchange, or at such intervals as may have been established

proposal, the Exchange proposes to amend Rule 916 to include the Ether ETPs in the list of ETFs subject to the continued listing standards. See proposed Commentary .11 to Rule 916 (proving that "[f]or purposes of Commentary .07 of this Rule 916, shares of the SPDR® Gold Trust (symbol: GLD), iShares COMEX Gold Trust (symbol: IAU), the iShares Silver Trust (symbol: SLV), and the ETFS Silver Trust (symbol: SIVR), the ETFS Gold Trust (symbol: SGOL), the ETFS Palladium Trust (symbol: PALL), the ETFS Platinum Trust (symbol: PPLT), the Bitwise Ethereum ETF (symbol: ETHW), the Grayscale Ethereum Trust (ETH) (symbol: ETHE), the Grayscale Ethereum Mini Trust (symbol: ETH), and any trust that holds ether, are deemed to be 'Exchange-Traded Fund Shares'") (emphasis added).

¹² See Rule 902 (Rights and Obligations of Holders and Writers), which provides that the rights and obligations of holders and writers of option contracts of any class of options dealt in on the Exchange shall be as set forth in the Rules of the Clearing Corporation. See also OCC Rules, Chapter VIII, which governs exercise and assignment, and Chapter IX, which governs the discharge of delivery and payment obligations arising out of the exercise of physically settled stock option contracts. OCC Rules can be located at: <https://www.theocc.com/getmedia/9d3854cd-b782-450f-bcf7-33169b0576ce/occrules.pdf>.

¹³ See Rule 903(h).

¹⁴ See Rule 903, Commentary .09.

¹⁵ See Rule 903, Commentary .03.

on another options exchange prior to the initiation of trading on the Exchange. With respect to the Short Term Options Series or Weekly Program, during the month prior to expiration of an option class that is selected for the Short Term Option Series Program, the strike price intervals for the related non-Short Term Option ("Related non-Short Term Option") shall be the same as the strike price intervals for the Short Term Option.¹⁶ Specifically, the Exchange may open for trading Short Term Option Series at strike price intervals of (i) \$0.50 or greater where the strike price is less than \$100, and \$1 or greater where the strike price is between \$100 and \$150 for all option classes that participate in the Short Term Options Series Program; (ii) \$0.50 for option classes that trade in one dollar increments and are in the Short Term Option Series Program; or (iii) \$2.50 or greater where the strike price is above \$150.¹⁷ Additionally, the Exchange may list series of options pursuant to the \$1 Strike Price Interval Program,¹⁸ the \$0.50 Strike Program,¹⁹ the \$2.50 Strike Price Program,²⁰ and the \$5 Strike Program.²¹ Rule 960NY governs the minimum increment for bids and offers for both equity and index options. Pursuant to Rule 960NY, where the price of a series of options in Ether ETPs is less than \$3.00 the minimum increment will be \$0.05, and where the price is \$3.00 or higher, the minimum increment will be \$0.10²² consistent with the minimum increments for options on other ETFs listed on the Exchange. Any and all new series of options on Ether ETPs that the Exchange lists will be consistent and comply with the expirations, strike prices, and minimum increments set forth in Rules 915, 903, and 970NY, as applicable.

Position and exercise limits for options on ETFs, including options on Ether ETPs, are determined pursuant to Rules 904 and 905, respectively. Position and exercise limits for ETFs options vary according to the number of outstanding shares and the trading volumes of the underlying ETF over the past six months, where the largest in capitalization and the most frequently traded ETFs have an option position and exercise limit of 250,000 contracts (with adjustments for splits, recapitalizations, etc.) on the same side of the market; and smaller capitalization ETFs have position and exercise limits of 200,000, 75,000, 50,000 or 25,000 contracts (with adjustments for splits, recapitalizations, etc.) on the same side of the market. Further, Rule 462, which governs margin requirements applicable to the trading of all options on the

Exchange including options on ETFs, will also apply to the trading of Ether ETP options.

* * * * *

The Exchange notes that options on Ether ETPs would not be available for trading until The Options Clearing Corporation (“OCC”) represents to the Exchange that it is fully able to clear and settle such options. The Exchange has also analyzed its capacity and represents that it and The Options Price Reporting Authority (“OPRA”) have the necessary systems capacity to handle the additional traffic associated with the listing of options on Ether ETPs. The Exchange believes any additional traffic that would be generated from the trading of options on Ether ETPs would be manageable. The Exchange represents that Exchange members will not have a capacity issue as a result of this proposed rule change.

The Exchange represents that the same surveillance procedures applicable to all other options on other ETFs currently listed and traded on the Exchange will apply to options on Ether ETPs. The Exchange’s existing surveillance and reporting safeguards are designed to deter and detect possible manipulative behavior which might arise from listing and trading options on ETFs, including the options on Ether ETPs. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of options on Ether ETPs in all trading sessions and to deter and detect violations of Exchange rules. In addition, the Exchange will implement any new surveillance procedures it deems necessary to effectively monitor the trading of options on Ether ETPs. Also, the Exchange may obtain trading information via the Intermarket Surveillance Group (“ISG”) from other exchanges who are members of the ISG, or from other exchanges with which the Exchange has entered into a comprehensive surveillance sharing agreement (“CSSA”). The Exchange will enter into new CSSAs with other exchanges as necessary to effectively monitor the trading of options on Ether ETPs. The Exchange represents that these procedures will be adequate to properly monitor Exchange trading of options on Ether ETPs and to deter and detect violations of Exchange rules.

Finally, quotation and last sale information for ETFs is available via the Consolidated Tape Association (“CTA”) high speed line. Quotation and last sale information for such securities is also available from the exchange on which such securities are listed. Quotation and last sale information for options on

Ether ETPs will be available via OPRA and major market data vendors.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act²³ in general and furthers the objectives of Section 6(b)(5) of the Act²⁴ in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system.

In particular, the Exchange believes that the proposal to list and trade options on Ether ETPs will remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors because offering options on Ether ETPs will provide investors with a greater opportunity to realize the benefits of utilizing options on an ETF based on spot ether, including cost efficiencies and increased hedging strategies. The Exchange believes that offering options on a competitively priced ETF based on spot ether will benefit investors by providing them with an additional, relatively lower cost risk management tool allowing them to manage, more easily, their positions, and associated risks, in their portfolios in connection with exposure to spot ether. Today, the Exchange lists options on other commodity ETFs structured as a trust, which essentially offer analogous objectives and benefits to investors, and for which the Exchange has not identified any issues with the continued listing and trading of options on those ETFs.

The Exchange also believes the proposal to permit options on Ether ETPs will remove impediments to and perfect the mechanism of a free and open market and a national market system, because options on Ether ETPs will comply with current Exchange rules as discussed herein. Specifically, options on Ether ETPs must satisfy the initial listing standards and continued listing standards currently in the Exchange rules, applicable to options on all ETFs, including options on other commodity ETFs already deemed appropriate for options trading on the Exchange pursuant to Rule 915, Commentary .10. Further, Exchange rules that currently govern the listing and trading of options on ETFs, including permissible expirations, strike prices, minimum increments, position and exercise limits, and margin

²³ 15 U.S.C. 78f(b).

²⁴ 15 U.S.C. 78f(b)(5).

requirements, will govern the listing and trading of options on Ether ETPs.

The Exchange represents that it has the necessary systems capacity to support any additional traffic that may be generated by the trading of options on Ether ETPs. In addition, the Exchange represents that its existing surveillance procedures are adequate to properly monitor the trading of options on Ether ETPs in all trading sessions and to deter and detect violations of Exchange rules. The Exchange further represents that it will implement new surveillance procedures, as necessary, to effectively monitor the trading of options on Ether ETPs.

Finally, the Commission has previously approved the listing and trading of options on other commodity ETFs structured as a trust, such as SPDR Gold Trust,²⁵ the iShares COMEX Gold Trust,²⁶ the iShares Silver Trust,²⁷ the ETFS Gold Trust,²⁸ and the ETFS Silver Trust.²⁹

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.

Intramarket Competition: The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act as options on Ether ETPs will be subject to initial listing standards and continued listing standards the same as other options on ETFs listed on the Exchange. Further, options on Ether

²⁵ See Securities Exchange Act Release No. 57897 (May 30, 2008), 73 FR 32061 (June 5, 2008) (SR-Amex-2008-15; SR-CBOE-2005-11; SR-ISE-2008-12; SR-NYSEArca-2008-52; and SR-Phlx-2008-17) (Order Granting Approval of a Proposed Rule Change, as Modified, and Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes, as Modified, Relating to Listing and Trading Options on the SPDR Gold Trust).

²⁶ See Securities Exchange Act Release No. 59055 (December 4, 2008), 73 FR 75148 (December 10, 2008) (SR-Amex-2008-68; SR-BSE-2008-51; SR-CBOE-2008-72; SR-ISE-2008-58; SR-NYSEArca-2008-66; and SR-Phlx-2008-58) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes Relating to the Listing and Trading Options on Shares of the iShares COMEX Gold Trust and the iShares Silver Trust).

²⁷ *Id.*

²⁸ See Securities Exchange Act Release No. 61483 (February 3, 2010), 75 FR 6753 (February 10, 2010) (SR-CBOE-2010-007; SR-ISE-2009-106; SR-NYSEAmex-2009-86; and SR-NYSEArca-2009-110) (Order Granting Approval of Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Listing and Trading Options on the ETFS Gold Trust and the ETFS Silver Trust).

²⁹ *Id.*

ETPs will be subject to Exchange rules that currently govern the listing and trading of options on ETFs, including permissible expirations, strike prices, minimum increments, position and exercise limits, and margin requirements. Moreover, options on Ether ETPs will be equally available to all market participants who wish to trade such options. Finally, and as stated above, the Exchange already lists options on other commodity ETFs structured as a trust.

Intermarket Competition: The Exchange does not believe the proposal will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the extent that permitting options on Ether ETPs to trade on the Exchange may make the Exchange a more attractive marketplace to market participants, such market participants are free to elect to become market participants on the Exchange.

Additionally, other options exchanges are free to amend their listing rules, as applicable, to permit them to list and trade options on Ether ETPs. The Exchange believes that the proposed rule change may relieve any burden on, or otherwise promote, competition as it is designed to increase competition for order flow on the Exchange in a manner that is beneficial to investors by providing them with a lower-cost option to hedge their investment portfolios. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues that offer similar products. Ultimately, the Exchange believes that offering options on Ether ETPs for trading on the Exchange will promote competition by providing investors with an additional, relatively low-cost means to hedge their portfolios and meet their investment needs in connection with spot ether prices and ether-related products and positions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its

reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-NYSEAMER-2024-45 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-NYSEAMER-2024-45. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All

submissions should refer to file number SR-NYSEAMER-2024-45 and should be submitted on or before September 3, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-17949 Filed 8-12-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-100667; File No. SR-CBOE-2024-033]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule

August 7, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on August 1, 2024, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") proposes to amend its Fees Schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for

³⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule, effective August 1, 2024.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 17 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 12% of the market share.³ Thus, in such a low-concentrated and highly competitive market, no single options exchange possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Fees Schedule currently lists fee codes and their corresponding transaction fee for routed Customer orders to other options exchanges specifically in Exchange Traded Funds ("ETF") and equity options, and for non-Customer orders routed in Penny and Non-Penny options classes. The Exchange notes that its current approach to routing fees is to set forth in a simple manner certain sub-categories of fees that approximate the cost of routing to other options exchanges based on the cost of transaction fees assessed by each venue as well as a flat \$0.15 assessment that covers costs to the Exchange for routing

(i.e., clearing fees, connectivity and other infrastructure costs, membership fees, etc.) (collectively, "Routing Costs"). The Exchange then monitors the fees charged as compared to the costs of its routing services and adjusts its routing fees and/or sub-categories to ensure that the Exchange's fees do indeed result in a rough approximation of overall Routing Costs, and are not significantly higher or lower in any area. The Exchange notes that another options exchange currently assesses routing fees in a similar manner as the Exchange's current approach to assessing approximate routing fees.⁴

Currently, under the Routing Fees table of the Fees Schedule, fee code RD is appended to Customer orders in ETF/Equity options routed to NYSE American ("AMEX"), BOX Options Exchange ("BOX"), Cboe EDGX Exchange, Inc. ("EDGX"), MIAX Options Exchange ("MIAX") or Nasdaq PHLX LLC ("PHLX") (excluding orders in SPY options), and assesses a charge of \$0.25 per contract. The Exchange proposes to amend fee code RD to add applicable Customer orders routed to MIAX Sapphire, LLC ("SPHR"), in anticipation of the launch of the new options exchange. The charge assessed per contract for fee code RD remains the same under the proposed rule change.

The proposed changes result in an assessment of fees that, in anticipation of the launch of another options exchange, is in line with the Exchange's current approach to routing fees, that is, in a manner that approximates the cost of routing Customer orders in ETF/Equity options to other away options exchanges, based on the general cost of transaction fees assessed by the sub-category of away options exchanges for such orders (as well as the Exchange's Routing Costs). The Exchange notes that routing through the Exchange is optional and that Trading Permit Holders ("TPHs") will continue to be able to choose where to route their Customer orders in ETF and equity options.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the "Act") and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section

6(b)(5)⁶ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,⁸ which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities.

The Exchange believes the proposed rule change to amend fee code RD to account for SPHR's expected assessment of fees for Customer orders is reasonable because it is reasonably designed to assess routing fees in line with the Exchange's current approach to routing fees. That is, the proposed rule change is intended to include Customer orders in ETF and equity options routed to SPHR in the most appropriate sub-category of fees that approximates the cost of routing to a group of away options exchanges based on the cost of transaction fees assessed by each venue as well as Routing Costs to the Exchange. As noted above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The Exchange notes that routing through the Exchange is optional and that TPHs will continue to be able to choose where to route their Customer orders in ETF and equity options in the same sub-category group of away exchanges as they currently may choose to route. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all TPHs. The Exchange further notes

³ See Cboe Global Markets U.S. Options Monthly Market Volume Summary (July 30, 2024), available at https://markets.cboe.com/us/options/market_statistics/.

⁴ See e.g., MIAX Options Exchange Fee Schedule, Section 1(c), "Fees for Customer Orders Routed to Another Options Exchange."

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ *Id.*

⁸ 15 U.S.C. 78f(b)(4).

that another options exchange currently approximates routing fees in a similar manner as the Exchange's current approach.⁹ The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because all TPHs' applicable Customer orders in ETF and equity options routed to SPHR will be automatically and uniformly assessed the applicable routing charge.

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. Particularly, the Exchange does not believe the proposed rule change to amend fee code RD will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. All TPHs' applicable Customer orders in ETF and equity options routed to SPHR will automatically yield fee code RD and uniformly be assessed the corresponding fee. The Exchange notes that another options exchange approximates routing costs in a similar manner as the Exchange's current approach.¹⁰

The Exchange also does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including 16 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 16% of the market share.¹¹ Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities

markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹² The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition v. Securities and Exchange Commission*, the D.C. Circuit stated as follows: "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . .".¹³ Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁴ and paragraph (f) of Rule 19b-4¹⁵ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule

change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-CBOE-2024-033 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to file number SR-CBOE-2024-033. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-CBOE-2024-033, and should be submitted on or before September 3, 2024.

⁹ See e.g., MIA Options Exchange Fee Schedule, Section 1(c), "Fees for Customer Orders Routed to Another Options Exchange."

¹⁰ See e.g., MIA Options Exchange Fee Schedule, Section 1(c), "Fees for Customer Orders Routed to Another Options Exchange."

¹¹ See *supra* note 3.

¹² See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

¹³ *NetCoalition v. SEC*, 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782-83 (December 9, 2008) (SR-NYSEArca-2006-21)).

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f).

¹⁶ 17 CFR 200.30-3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2024-17952 Filed 8-12-24; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice 12481]

30-Day Notice of Proposed Information Collection: Four DDTC Information Collections

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to September 12, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Battista, SA-1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State, Washington, DC 20522-0112, via phone at 202-992-0973, or via email at battistaal@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data.
- *OMB Control Number:* 1405-0003.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, PM/DDTC.

- *Form Number:* DSP-5.
- *Respondents:* Business, Nonprofit Organizations, and Individuals.
- *Estimated Number of Respondents:* 1,668.
- *Estimated Number of Responses:* 16,845.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 16,845 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain or Retain a Benefit.
- *Title of Information Collection:* Application/License for Temporary Import of Unclassified Defense Articles.
- *OMB Control Number:* 1405-0013.
- *Type of Request:* Extension of Currently Approved Collection.
- *Originating Office:* Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, PM/DDTC.
- *Form Number:* DSP-61.
- *Respondents:* Business, Nonprofit Organizations, and Individuals.
- *Estimated Number of Respondents:* 141.
- *Estimated Number of Responses:* 572.
- *Average Time per Response:* 30 minutes.
- *Total Estimated Burden Time:* 286 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required in Order to Obtain or Retain Benefits.
- *Title of Information Collection:* Application/License for Temporary Export of Unclassified Defense Articles.
- *OMB Control Number:* 1405-0023.
- *Type of Request:* Extension of Currently Approved Collection.
- *Originating Office:* Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, PM/DDTC.
- *Form Number:* DSP-73.
- *Respondents:* Business and Nonprofit Organizations.
- *Estimated Number of Respondents:* 340.
- *Estimated Number of Responses:* 2,029.
- *Average Time per Response:* 1 hour.
- *Total Estimated Burden Time:* 2,029 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required in Order to Obtain or Retain Benefits.
- *Title of Information Collection:* Application for Amendment to License for Export or Import of Unclassified Defense Articles and Related Unclassified Technical Data.
- *OMB Control Number:* 1405-0092.
- *Type of Request:* Extension of Currently Approved Collection.
- *Originating Office:* Bureau of Political-Military Affairs, Directorate of Defense Trade Controls, PM/DDTC.

- *Form Number:* DSP-6; DSP-62; DSP-74.
- *Respondents:* Business, Nonprofit Organizations, and Individuals.
- *Estimated Number of Respondents:* 440.
- *Estimated Number of Responses:* 1,742.
- *Average Time per Response:* 30 minutes.
- *Total Estimated Burden Time:* 871 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required in Order to Obtain or Retain Benefits.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- 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.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The export, temporary import, and brokering of defense articles, including technical data, and defense services are authorized by the Department of State, Bureau of Political-Military Affairs, Directorate of Defense Trade Controls (DDTC) in accordance with the International Traffic in Arms Regulations (“ITAR,” 22 CFR parts 120–130) and section 38 of the Arms Export Control Act (AECA). Any person who engages in the United States in the business of manufacturing, brokering, exporting, or temporarily importing defense articles, including technical data, or furnishing defense services must register with the Department of State. Manufacturers who do not engage in exporting must nevertheless register. Additionally, any person who intends to export or to import temporarily a defense article must obtain the approval from DDTC prior to the export or temporary import, unless the export or temporary import qualifies for an exemption. The applicant must be registered with DDTC prior to

submitting an application or using an exemption. Also, registered brokers must submit annual reports regarding all brokering activities that were transacted, and registered manufacturers and exporters must maintain records of defense trade activities for five years.

- **1405-0003, Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data:** In accordance with part 123 of the ITAR, any person who intends to permanently export unclassified defense articles or unclassified technical data must obtain DDTC approval prior to export. The “Application/License for Permanent Export of Unclassified Defense Articles and Related Unclassified Technical Data” (Form DSP-5) is the licensing vehicle typically used to obtain permission for the permanent export of unclassified defense articles, including unclassified technical data covered by the U.S. Munitions List (USML). This form is an application that, when approved, signed and dated by an official of DDTC, serves as the applicant’s authorization for the permanent export of unclassified USML articles.

- **1405-0013, Application/License for Temporary Import of Unclassified Defense Articles:** In accordance with part 123 of the ITAR, any person who intends to temporarily import unclassified defense articles must obtain DDTC authorization prior to import. The “Application/License for Temporary Import of Unclassified Defense Articles” (Form DSP-61) is the licensing vehicle typically used to obtain permission for the temporary import of unclassified defense articles covered by the USML. This form is an application that, when completed and approved by DDTC, it constitutes the official record and authorization for the temporary commercial import of unclassified USML articles, pursuant to the AECA and the ITAR.

- **1405-0023, Application/License for Temporary Export of Unclassified Defense Articles:** In accordance with part 123 of the ITAR, any person who intends to temporarily export unclassified defense articles must obtain authorization from DDTC prior to export. The “Application/License for Temporary Export of Unclassified Defense Articles” (Form DSP-73) is the licensing vehicle typically used to obtain permission for the temporary export of unclassified defense articles covered by the USML. This form is an application that, when completed and approved by DDTC, it constitutes the official record and authorization for the temporary commercial export of

unclassified USML articles, pursuant to the AECA and the ITAR.

- **1405-0092, Application for Amendment to License for Export or Import of Unclassified Defense Articles and Related Unclassified Technical Data:** In accordance with part 123 of the ITAR, any person who intends to permanently export, temporarily import, or temporarily export unclassified or classified defense articles or related technical data must obtain DDTC authorization. This information collection is used by private industry to make changes in an approved Form DSP-5, Form DSP-61, or Form DSP-73. Upon approval, the amendment form along with the original license constitutes the authority to export or temporarily import.

Methodology: This information collection may be sent to DDTC via the following methods: electronically or by mail.

Michael J. Vaccaro,

Deputy Assistant Secretary for Defense Trade Controls, U.S. Department of State.

[FR Doc. 2024-17948 Filed 8-12-24; 8:45 am]

BILLING CODE 4710-25-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36780]

Grupo México, S.A.B. de C.V. and GMéxico Transportes, S.A.B. de C.V.—Acquisition of Control Exemption—CG Railway, LLC

On May 15, 2024, GMéxico Transportes, S.A.B. de C.V. (GMXT), a noncarrier railroad holding company, filed a petition under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 11323–24 to allow GMXT to acquire an indirect controlling ownership interest in CG Railway, LLC (CGR), a Class III carrier.¹ The Board will grant the petition for

¹ The petition identifies GMXT as the entity seeking Board authority to acquire a controlling ownership interest in CGR. However, because Grupo México, S.A.B. de C.V. (Grupo México) is the ultimate parent company of GMXT, this proceeding has been recaptioned to include Grupo México. GMXT and Grupo México are collectively referred to as Petitioners.

GMXT’s initial petition, filed in Docket No. FD 36701, was rejected as incomplete and for failing to provide adequate supporting information. See *GMéxico Transportes, S.A.B. de C.V.—Acquis. of Control Exemption—CG Ry. (April 2024 Decision)*, FD 36701, slip op. at 2–4 (STB served Apr. 4, 2024). The Board also required CGR and its owners to respond to questions concerning, respectively, authorization for CGR’s current operations and for the transaction in which they acquired CGR. *Id.* at 4–5; see also *infra* notes 3 & 4.

exemption, subject to standard employee protective conditions.

Background

CGR is wholly owned by Golfo de México Rail Ferry Holdings LLC, a 50/50 joint venture (JV) between Seacor Holdings, Inc. (through its wholly owned subsidiary, Rail Ferry Investment Holdings Inc.) (Seacor) and Genesee & Wyoming, Inc. (through its wholly owned subsidiary, G&W Agave Holdings Inc.) (GWI).² (Pet. 2–3.) CGR provides rail carrier service in the Port of Mobile, Ala., and rail ferry service between the Port of Mobile and the Port of Coatzacoalcas, Mexico, where the rail ferry operation connects to the Ferrosur Railway, a rail carrier subsidiary of GMXT located in Mexico.³ (Pet. 3.)

GMXT, a subsidiary of Grupo México (a noncarrier holding company), controls, through indirect ownership, Florida East Coast Railway, L.L.C. (FECR), a Class II carrier in Florida, and Texas Pacifico Transportation, Ltd. (Texas Pacifico), a Class III carrier in Texas.⁴ (Pet. 3); see *Grupo México, S.A.B. de C.V.—Control Exemption—Fla. E. Coast Holdings Corp.*, FD 36109, slip op. at 1 (STB served May 9, 2017). As explained in the petition, FECR and Texas Pacifico are in the same corporate family as the Copper Basin Railway, Inc., a Class III carrier in Arizona that Grupo México controls through a different indirect subsidiary, ASARCO LLC. (Pet. 3–4).⁵

² In response to questions raised in the *April 2024 Decision* in Docket No. FD 36701, GWI and Seacor jointly submitted a letter explaining that neither GWI nor Seacor “controlled” CGR within the meaning of 49 U.S.C. 10102(7) and 11323(a) due to their 50/50 ownership split and provisions in the agreement governing the JV requiring that decision-making authority is shared equally between the parties. See Letter, May 7, 2024, *GMéxico Transportes*, FD 36701. In the absence of any countervailing evidence, the Board finds this explanation satisfactory and supported by the agreement governing the JV.

³ Following the *April 2024 Decision* in Docket No. FD 36701, CGR obtained after-the-fact authority to operate the rail ferry service between the Port of Mobile and the U.S. maritime boundary line in the Gulf of Mexico. See *CG Ry.—Operation Exemption—Rail Ferry Serv.*, FD 36775 (STB served May 23, 2024). It had previously sought and received authority to operate certain tracks within the Port of Mobile, but not to operate the broader ferry service. *Id.* at 1–2.

⁴ As requested in the *April 2024 Decision*, charts showing the intra-corporate relationships between and among the Grupo México companies before and after the proposed acquisition of CGR are attached to the petition as Exhibit A. See *April 2024 Decision*, FD 36701, slip op. at 2–3 (requiring information about corporate structure and holdings).

⁵ Grupo México also obtained after-the-fact authority to acquire Copper Basin in response to questions raised by the Board in the *April 2024 Decision* in Docket No. FD 36701. See *Grupo México, S.A.B. de C.V.—Acquis. of Control*

Continued

As described in the petition, GMXT has reached agreements with Seacor and GWI under which GMXT would acquire an indirect 60% ownership interest in the JV, “which includes the railroad equipment and trackage rights over 0.583 miles of line of railroad in the Port of Mobile, Ala[.] known as tracks 14 and 15, and the rail ferry service between the docks and the U.S. maritime territorial border.” (*Id.* at 4.)⁶ Specifically, GMXT (through GMXT Marine LLC, an indirect wholly owned subsidiary) will acquire all of Seacor’s 50% ownership interest in the JV, and 20% of GWI’s 50% ownership interest, resulting in GMXT having an indirect 60% ownership interest in the JV and control of the JV and CGR. (Pet. 4.) GMXT states that Seabulk Fleet Management LLC, an affiliate of Seacor, will remain as ferry operator on a contract basis with CGR. (*Id.*)

In support of its petition, GMXT states that CGR will continue to operate in the same manner as it currently does. (*Id.* at 6.) GMXT notes that concentrating ownership of CGR in GMXT, a frequent user of the rail ferry service, will ensure that revenue from the service is used for railroad purposes and provide GMXT with both greater incentive and ability to invest in the rail ferry and improve operations. (*Id.*) GMXT asserts that granting the exemption will promote several goals of the rail transportation policy (RTP) of 49 U.S.C. 10101. (*Id.* at 6–7 (listing provisions).) GMXT further contends that the grant of an exemption will not adversely affect any of the remaining elements of the RTP. (*Id.* at 7.) Finally, GMXT asserts that the transaction is limited in scope and that application of the requirements of sections 11323–24 is not necessary to protect shippers from the abuse of market power, and it explains the reasons for this contention. (*Id.* at 7–11.)

Discussion and Conclusions

The acquisition of control of a rail carrier by a person that is not a rail carrier but that controls any number of rail carriers requires prior approval from the Board under 49 U.S.C. 11323(a)(5). Under section 10502(a), however, the Board shall, to the maximum extent consistent with 49 U.S.C. subtitle IV, part A, exempt a transaction or service from regulation when it finds that: (1)

regulation is not necessary to carry out the RTP of 49 U.S.C. 10101; and (2) either (a) the transaction or service is limited in scope, or (b) regulation is not needed to protect shippers from the abuse of market power.

In this case, an exemption from the prior approval requirements of 49 U.S.C. 11323–24 is consistent with the standards of 49 U.S.C. 10502. Detailed scrutiny of the proposed transaction through an application for review and approval under sections 11323–24 is not necessary here to carry out the RTP. Under these circumstances, and given GMXT’s representations, approval of the transaction would result in a change in ownership and control of CGR with no lessening of competition. GMXT asserts that concentrating ownership of CGR in GMXT, a frequent user of the rail ferry service, will ensure that revenue from the service is used for railroad purposes and provide GMXT with greater incentive and ability to invest in the rail ferry and to improve operations. (Pet. 6.) Therefore, an exemption would further the RTP by promoting a safe and efficient rail transportation system, 49 U.S.C. 10101(3); ensuring the development and continuation of a sound rail transportation system to meet the needs of the public, 49 U.S.C. 10101(4); fostering sound economic conditions in transportation, 49 U.S.C. 10101(5); and encouraging efficient management of railroads, 49 U.S.C. 10101(9). An exemption would also promote the RTP by minimizing the need for federal regulatory control over the transaction, 49 U.S.C. 10101(2); reducing regulatory barriers to entry, 49 U.S.C. 10101(7); and providing for the expeditious resolution of this proceeding, 49 U.S.C. 10101(15). Other aspects of the RTP would not be adversely affected.

Nor is detailed scrutiny of the proposed transaction necessary to protect shippers from an abuse of market power.⁷ As noted in the petition, the market for the transportation of goods between the U.S. and Mexico is robust; shippers have many transportation choices, and CGR’s rail ferry service is a small component of that dynamic market. (Pet. 8.) Moreover, the transaction does not prevent other rail carriers—or any entity except Seacor and its affiliates (for a period of five years)⁸—from entering the market

to compete with CGR by offering rail ferry service between Mobile and Coatzacoalcos or between other port locations on the Gulf of Mexico in either country. (*Id.* at 8–10.) GMXT states that no shippers would experience a reduction of competitive options. (*Id.* at 8.)⁹ GMXT also explains that CGR must interchange traffic moving into and out of its two tracks at the Port of Mobile; that the transaction agreements do not limit its ability to interchange with any of several third-party connecting carriers; and that the proposed transaction involves the common control of carriers that have only one direct connection and do not compete with each other.¹⁰ GMXT further represents “that it will not use the connection between CGR and Ferrosur to foreclose vertical competition over efficient joint line routes with unaffiliated carriers,” (Pet. 9 n.9), and the Board will hold GMXT to that statement.¹¹ See *Genesee & Wyo.*—

from providing or supporting a competing rail ferry service for five years between U.S. and Mexican ports in the designated area in which CGR will provide service. (Pet. 10.) It emphasizes that other companies can provide rail ferry service in CGR’s territory, and that any company, including Seacor, can ship freight between the U.S. and Mexico by land. (*Id.*) The petition further contends that such a provision is necessary to protect GMXT’s investment in CGR, including acquisition of CGR’s goodwill and relationship with customers, which may be imperiled if Seacor commences new rail ferry operations that replicate CGR’s current service. (*Id.*) After a review of the contractual provision, and based on the information submitted in the petition, the Board finds that the clause will not have an anticompetitive effect, on balance, in the market in which CGR operates.

⁹ (See also *id.* at 8 (stating that “shippers will have the same service options available to them as they have now”; that “[n]o shipper will lose an existing transportation option”; and that “CGR will continue to provide common carrier rail service”).)

¹⁰ GMXT’s assertion that the Board “has consistently rejected the notion that new single-line movements created through merger would lead the merged carrier to vertically foreclose competition over efficient routes by refusing to cooperate with unaffiliated carriers,” (Pet. 8–9 (quoting a 2007 decision in a control proceeding)), is mistaken. See *Canadian Pac. Ry.—Control—Kan. City S.*, FD 36500, slip op. at 44–47 (STB served Mar. 15, 2023) (concluding that the one-lump theory does not justify a presumption that a vertical combination will not result in competitive harm).

¹¹ GMXT states that it does not concede that competitive effects of interchange in Mexico fall within the Board’s jurisdiction but makes this representation in the event the Board concludes otherwise. (Pet. 9 n.9.) The Board has jurisdiction over transportation in the United States between a place in the United States and a place in a foreign country. See 49 U.S.C. 10501(a)(2)(F); see also, e.g., *Can. Packers, Ltd. v. Atchison, Topeka & Santa Fe Ry.*, 385 U.S. 182 (1966) (upholding ICC’s determination that it had jurisdiction to determine the reasonableness of a joint through international freight rate from New Mexico to Canada and to order reparations, including for the overcharge on the Canadian portion of the trip); *Canadian Pac. Ry.—Control*, FD 36500, slip op. at 54 & n.77 (Board may consider U.S.-related impacts of potential rate manipulation or other post-transaction conduct that

Exemption—Copper Basin Ry., FD 36767 (STB served June 14, 2024).

⁶ Copies of the agreements are attached to the petition as Exhibit C. On July 3, 2024, GMXT filed an amendment to the agreement with Seacor modifying certain dates specified in the agreement. GMXT states that the amendment was filed for completeness and affects no substantive provision of the agreement. (GMXT Suppl. 3.)

⁷ Given this finding, the Board need not determine whether the transaction is limited in scope. See 49 U.S.C. 10502(a).

⁸ In response to questions raised in the *April 2024 Decision* in Docket No. FD 36701 regarding the competitive impact of a non-compete provision in the GMXT-Seacor agreement, the petition explains that the provision restricts Seacor and its affiliates

Acquis. of Control Exemption—Atl. W. Transp. & Heart of Ga. R.R., FD 36105, slip op. at 3 (STB served Apr. 18, 2017) (holding carrier to similar representation in exemption proceeding). Moreover, no shipper (or any other entity) has objected to this control transaction. Based on the record, the Board finds that the transaction does not shift or consolidate market power and that regulation is not needed to protect shippers from an abuse of market power.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a carrier of its statutory obligation to protect the interests of employees. Accordingly, as a condition to granting this exemption, the Board will impose the standard employee protective conditions in *New York Dock Railway—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60, *aff'd New York Dock Railway v. United States*, 609 F.2d 83 (2d Cir. 1979).

The control transaction is exempt from environmental reporting requirements under 49 CFR 1105.6(c)(1)(i) because it will not result in any significant change in carrier operations. Similarly, the transaction is exempt from the historic reporting requirements under 49 CFR 1105.8(b)(1) because GMXT states that it has no plans to dispose of or alter properties subject to the Board's jurisdiction that are 50 years old or older.

In its July 3, 2024 filing, GMXT asks that the exemption be made effective no later than August 27, 2024. (GMXT Suppl. 4.) GMXT's rationale is not persuasive, particularly given the questions raised in the *April 2024 Decision* in Docket No. FD 36701 and the complexities of this proceeding, which counsel in favor of giving interested parties time to review this decision prior to the exemption's effective date.¹² The Board will retain the 30-day period prescribed by 49 CFR 1121.4(e). The exemption will be effective September 12, 2024. Petitions to stay must be filed by August 23, 2024.

adversely affects interline optionality at international gateway and, if warranted, remedy the situation).

¹² GMXT requests expedited consideration "to allow the parties to complete all necessary actions required to accomplish the postponed closing [of the agreement with Seacor] without any further delay." (GMXT Suppl. 4; *see id.* at 3 (stating that closing was postponed "to align with [the agreement between GMXT and GWI], which includes a similar date").) Petitioners' desire to meet their chosen closing date(s) is not, by itself, a sufficient basis for shortening the 30-day period (and, potentially, the related interim deadlines for stay, reconsideration, and reopening requests) identified in 49 CFR 1121.4(e) before an exemption may take effect, particularly given the circumstances of this proceeding.

Petitions for reconsideration or petitions to reopen must be filed by September 3, 2024.

It is ordered:

1. Under 49 U.S.C. 10502, the Board exempts from the prior approval requirements of 49 U.S.C. 11323–25 the control transaction described above, subject to the employee protective conditions in *New York Dock Railway—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60, *aff'd New York Dock Railway v. United States*, 609 F.2d 83 (2d Cir. 1979).

2. Petitioners must adhere to GMXT's statement that it will not use the connection between CGR and Ferrosur to foreclose vertical competition over efficient joint line routes with unaffiliated carriers.

3. Notice of the exemption will be published in the **Federal Register**.

4. The exemption will become effective on September 12, 2024. Petitions for stay must be filed by August 23, 2024. Petitions for reconsideration or petitions to reopen must be filed by September 3, 2024.

Decided: August 8, 2024.

By the Board, Board Members Fuchs, Hedlund, Primus, and Schultz.

Kenyatta Clay,
Clearance Clerk.

[FR Doc. 2024–18030 Filed 8–12–24; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2024–0357; Summary Notice No. 2024–34]

Petition for Exemption; Summary of Petition Received; Department of the Army—Joint Task Force North

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before September 3, 2024.

ADDRESSES: Send comments identified by docket number [FAA–2024–0357] using any of the following methods:

- **Federal eRulemaking Portal:** Go to <https://www.regulations.gov> and follow the online instructions for sending your comments electronically.

- **Mail:** Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

- **Hand Delivery or Courier:** Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- **Fax:** Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to <http://www.regulations.gov>, as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at <http://www.dot.gov/privacy>.

Docket: Background documents or comments received may be read at <http://www.regulations.gov> at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Alexander Kem, alexander.s.kem@faa.gov Phone: 202–267–7571, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Dan Ngo,

Manager, Part 11 Petitions Branch, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2024–0357.

Petitioner: Department of the Army—Joint Task Force North.

Section(s) of 14 CFR Affected: §§ 91.209(a)(1) and 91.209(b).

Description of Relief Sought: Department of the Army—Joint Task Force North has requested relief from 14 CFR 91.209(a)(1) and 91.209(b) to

conduct night-vision-goggle (NVG) lights-out operations with the UH-72 Lakota helicopters along the southwest border with Mexico.

[FR Doc. 2024-17929 Filed 8-12-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2024-0208]

Notice of Review of Guidance

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Regulatory guidance; notice of review of guidance.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) will be reviewing its existing guidance documents to evaluate their continued necessity and determine whether they should be updated or eliminated. As part of this review, FMCSA invites the public to identify and provide input on existing guidance documents that are good candidates for revision or rescission.

DATES: Comments should be received on or before September 12, 2024.

ADDRESSES: You may submit comments identified by Docket Number FMCSA-2024-0208 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov/docket/FMCSA-2024-0208/document>. Follow the online instructions for submitting comments.
- *Mail:* Dockets Operations, U.S. DOT, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- *Hand Delivery or Courier:* Dockets Operations, U.S. DOT, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590-0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366-9317 or (202) 366-9826 before visiting Dockets Operations.
- *Fax:* (202) 493-2251.

FOR FURTHER INFORMATION CONTACT: Ms. Anna Winkle, Attorney-Advisor, Office of Chief Counsel, FMCSA, 1200 New Jersey Ave. SE, Washington, DC 20590-0001; 202-366-5257; anna.winkle@dot.gov.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Comments Sought for Consideration During Regular Review of FMCSA Guidance Documents

FMCSA's primary mission is to reduce crashes, injuries and fatalities involving large trucks and buses. In carrying out this safety mandate, FMCSA develops and enforces data-driven regulations and produces guidance documents to clarify regulatory requirements and aid compliance. Section 5203(c) of the Fixing America's Surface Transportation (FAST) Act requires that, not less than once every 5 years, FMCSA conduct a comprehensive review ("regular review") of the guidance documents it has issued to determine whether such documents are consistent and clear, uniformly and consistently enforced, and still necessary. A similar comprehensive review was conducted in early 2020, culminating in the effective reissuance of all of the guidance in FMCSA's guidance portal on March 3, 2020, the date the Department announced the availability of the regulatory guidance portals.¹ Prior to beginning a regular review, FMCSA is required to publish a notice and request for comment in the **Federal Register** that solicits input from stakeholders on which guidance documents should be updated or eliminated. This notice satisfies this statutory requirement.

Accordingly, FMCSA seeks written input from the public on all FMCSA guidance documents that are good candidates for revision or rescission including guidance published at FMCSA's guidance portal page located at <https://www.fmcsa.dot.gov/guidance>. The public is encouraged to identify guidance documents that: (1) are inconsistent or unclear; (2) may not be conducive to uniform or consistent enforcement; or (3) are no longer necessary.

B. Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2024-0208), indicate the specific guidance document to which your comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your

name and a mailing address, an email address, or a phone number in the body of your document so FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to <https://www.regulations.gov/docket/FMCSA-2024-0208/document>, click on this notice, click "Comment," and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

C. Content of Comments

FMCSA will consider all comments and material received during the comment period. To maximize the usefulness of comments, FMCSA encourages commenters to provide the following information.

1. *A specific reference to the guidance document and associated statutes or regulations that the comment discusses.* This should include the title or subject, the date of issuance, guidance document number if available (e.g., FMCSA-CDL-383.73-FAQ01(2024-05-20)), internet address of guidance location, or other source of the guidance document. You may also provide copies of the guidance if it is not readily identifiable through these sources. If available, the reference should include citations to the associated statutes (e.g., FAST Act) or regulations in the Code of Federal Regulations. A specific reference will assist FMCSA in identifying the guidance document and any associated statutory or regulatory requirements.

2. *A description of the problem with the specific guidance document.* A comment that explains why the guidance document should be eliminated or revised is more useful than a comment that merely asserts that the guidance should be eliminated or revised. Comments that reflect experience with the guidance or a related statutory or regulatory requirement and provide data describing that experience are more helpful than comments that are not tied to direct experience.

3. *A description of alternatives that are better than the specific guidance document.* If the commenter believes that the objective that motivated the guidance document may be achieved using a better alternative, the commenter should describe that alternative in detail. Likewise, if the

¹ See 85 FR 12663 and <https://www.transportation.gov/guidance/operating-administration-guidance-portals>.

commenter believes that there is not a better alternative or there is not a legitimate objective served by the guidance document, then that should be explained in the comment.

4. *Examples of entities that are, have been, or will be negatively affected by the specific guidance document and examples of entities that will benefit if the guidance is removed or revised.* A comment listing specific entities is more useful because it will assist FMCSA in investigating the guidance document and its impact.

D. Confidential Business Information (CBI)

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to the notice contain commercial or financial information that (1) is customarily treated as confidential and that you actually treat as confidential, and (2) is relevant or responsive to the notice, you may request confidential treatment. It is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission that constitutes CBI as "PROPIN" to indicate it contains proprietary information. For pages that contain both CBI and non-confidential information, commenters should use markings (e.g., brackets, highlighting, font changes, or other markings) to identify the portions of text that constitute CBI and provide a description of the markings used. FMCSA will treat such marked submissions as confidential under the Freedom of Information Act, and they will not be placed in the public docket for this notice. FMCSA is currently treating electronic submission as an acceptable method for submitting CBI to the Agency. Submissions containing CBI should be sent electronically to Brian Dahlin, Chief, Regulatory Evaluation Division, Office of Policy at Brian.Dahlin@dot.gov. At this time, you need not send a duplicate hardcopy of your electronic CBI submissions to FMCSA headquarters. Any comments FMCSA receives not specifically designated as CBI will be placed in the public docket for this notice.

E. Viewing Comments and Documents

To view comments, as well as any documents mentioned as being available in the docket, go to <https://www.regulations.gov/docket/FMCSA-2024-0208/document> and choose the document to review. To view comments, click this notice, then click

"Browse Comments." If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

F. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov. As described in the system of records notice DOT/ALL 14 (Federal Docket Management System (FDMS)), which can be reviewed at <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notices>, the comments are searchable by the name of the submitter.

Sue Lawless,

Acting Deputy Administrator.

[FR Doc. 2024–17966 Filed 8–12–24; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2024–0131]

Pipeline Safety: Proposed Waiver of the Build America, Buy America Act Requirements for Gas Service Risers and Gas Meters Under the NGDISM Program

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Notice; request for comments.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration (PHMSA), proposes to waive the Build America, Buy America (BABA) Act's domestic preference requirements for certain products widely used in natural gas distribution systems on the basis of nonavailability. The proposed duration of the waiver will apply to expenditures on or after the effective date of the final waiver for recipients of funding under the Natural Gas Distribution Infrastructure Safety and Modernization (NGDISM) Grant Program and would expire after three years. In accordance with Section 70914(c) of BABA, PHMSA

is seeking public comments on the proposed waiver.

DATES: Comments must be received by August 28, 2024.

ADDRESSES: Please submit your comments to the Federal eRulemaking Portal at <http://www.regulations.gov>, Docket No. PHMSA–2024–0131, and follow the online instructions for submitting comments.

Instructions: You must include the agency name and docket number at the beginning of your comments. Except as described below under the heading "Confidential Business Information," all submissions received, including any personal information provided, will be posted without change or alteration to <http://www.regulations.gov>. For more information, you may review the U.S. Department of Transportation's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000 (65 FR 19477).

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Ms. Shakira Mack, Office of Pipeline Safety, 202–366–5090, or via email at Shakira.Mack@dot.gov. Office hours for PHMSA are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

A copy of this Notice, all comments received on this Notice, and all background material may be viewed online at <http://www.regulations.gov> using the docket number listed above. Electronic retrieval help and guidelines are also available at <http://www.regulations.gov>. An electronic copy of this document also may be downloaded from the Office of the Federal Register's website at: www.FederalRegister.gov and the Government Publishing Office's website at: www.GovInfo.gov.

Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. You may ask PHMSA to give confidential treatment to information you give to the agency by

taking the following steps: (1) mark each page of the original document submission containing CBI as “Confidential”; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this Notice. Submissions containing CBI should be sent to: Ms. Shakira Mack, PHMSA, 1200 New Jersey Avenue SE, Washington, DC 20590. Any comment submissions that PHMSA receives that are not specifically designated as CBI will be placed in the public docket for this matter.

Background

The NGDISM program was authorized by the Infrastructure Investment and Jobs Act (IIJA) (Pub. L. 117–58). The program provides Federal funding to municipal- or community-owned natural gas utilities (not including for-profit entities) to repair, rehabilitate, or replace their natural gas distribution pipeline systems or portions thereof, or to acquire equipment to (1) reduce incidents and fatalities and (2) avoid economic losses. The IIJA appropriates \$200 million per year for each of Fiscal Years (FY) 2022 through 2026 for the NGDISM program (\$1 billion in total). The IIJA provides that 2 percent of this amount shall be used to pay the administrative expenses of the NGDISM program. Accordingly, the total amount expected to be awarded as grant funding over the five-year period is approximately \$980,000,000. In FY22, PHMSA awarded approximately \$196 million to 37 municipal- and community-owned natural gas utilities across the nation to fund pipeline replacement projects and the purchase of leak-detection equipment.

Congress also enacted the Build America, Buy America Act (BABA), providing that “none of the funds made available for a Federal financial assistance program for infrastructure . . . may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.” IIJA, Public Law 117–58, § 70914(a). Under IIJA Section 70914(b), PHMSA has authority to waive the requirements of BABA (1) if a domestic product is unavailable, (2) if using a domestic product would present an unreasonable cost, or (3) if application

of BABA would not be in the public interest.

In January 2024, PHMSA was contacted by several FY22 NGDISM recipients who requested waivers for certain products on the basis of nonavailability and submitted the results of their independent market research to PHMSA. The products requested to be waived included gas service risers and gas meters. PHMSA considers these products to be either “iron or steel products” or “manufactured products” under BABA depending on the cost of the iron and steel components incorporated in each product. See 2 CFR 184.3. A more detailed description of each product is provided below:

- *Gas Service Risers*: Service risers are sections of pipe that provide a 90-degree connection between underground gas service lines and aboveground meter assemblies. Risers are made primarily of steel but typically also include polyethylene components, and may include a protective sleeve over the polyethylene components. Service risers are manufactured in a variety of sizes, and may be rigid or flexible. PHMSA proposes to waive BABA requirements for field assembly risers and service head adapter risers.

- *Gas Meters*: Gas meters are placed outside of a residence or business that utilizes natural gas and allows the utility operator to track how much gas is being used by the residence or business. Gas meters incorporate a variety of components made of different materials, but are typically made primarily of aluminum. “Smart” meters are not typically used in the gas industry. Instead, gas meters are commonly paired with automated meter reading technology (AMR) that uses radio waves to transmit gas usage data. Accordingly, gas meters are typically not capable of connecting to the internet. PHMSA proposes to waive BABA requirements for both smaller-volume meters designed for residential use and larger-volume meters designed for use on commercial establishments.

Justification for the Waiver

PHMSA has preliminarily determined that these products are not manufactured in the United States in sufficient and reasonably available quantities or of a satisfactory quality. To support this determination, PHMSA evaluated the market research performed by the NGDISM grant recipients who requested the waiver. PHMSA also conducted its own market research on the products identified by NGDISM grant recipients. The market research performed by the NGDISM

grant recipients consisted of engaging the supplier scouting services of the National Institute of Standards and Technology’s Manufacturing Extension Partnership (NIST-MEP), publicizing Invitations for Bids that included terms requiring bidders to certify compliance with BABA, and individually contacting known suppliers and vendors to identify potential sources of BABA-compliant products. PHMSA thereafter conducted its own supplier scouting through NIST MEP and independently engaged with industry to confirm the findings of the NGDISM grant recipients. At the conclusion of this process, PHMSA identified a company who could produce BABA-compliant versions of certain types of gas risers. Specifically, the company PHMSA identified currently produces standard “anodeless service risers” that meet the requirements of BABA but could not produce the “field assembly risers” or “service head adapter risers” that are sometimes used in lieu of standard risers, and that are needed by some NGDISM recipients. Accordingly, PHMSA narrowed the scope of its proposed waiver to exclude standard anodeless service risers.

The FY22 NGDISM recipients also requested a nonavailability waiver for service regulators. Service regulators are devices incorporated into a meter assembly designed to allow gas from a higher-pressure service line to enter a residence’s or business’s gas lines at a lower pressure ideal for everyday use. During its market research, PHMSA identified a single company that currently produces BABA-compliant service regulators and accordingly removed service regulators from the scope of this proposed waiver, as PHMSA’s market research did not support a clear finding of nonavailability. However, some NGDISM recipients have expressed concern about whether a single company would be able to supply regulators needed by all NGDISM award recipients. PHMSA has engaged with the company to determine its production capacity for service regulators, but PHMSA lacks information on the anticipated demand for service regulators during the life of the NGDISM program. A lack of sufficient supply could unduly delay the safety-critical construction projects funded by the NGDISM program; thus, PHMSA is specifically requesting comments from industry on the demand for service regulators purchased through the NGDISM program to inform its future consideration of any potential

waivers of BABA requirements for service regulators.

Proposed Waiver and Request for Comments

The products covered by this proposed waiver are essential products used in every natural gas distribution system. Accordingly, nearly every NGDISM project that includes infrastructure expenditures will have a need for these products. Without these products, most NGDISM projects would not be able to be completed safely and successfully.

PHMSA does not anticipate that this proposed waiver would have a material impact on domestic manufacturing capabilities for these products. The NGDISM program is authorized to fund \$196 million of pipeline replacements per year over five years, which PHMSA believes represents a small fraction of the total market for pipeline replacement construction projects in the United States. For example, in the first year of the NGDISM program, PHMSA received grant applications requesting over \$1 billion in total funding combined. This suggests that only a fraction of the overall market for these products will be funded by the NGDISM program, and thus only a small fraction will be subject to BABA requirements even in the absence of this waiver.

The products proposed to be waived will also constitute a small percentage of total infrastructure spending under the NGDISM program. Although the data currently available to PHMSA are incomplete, PHMSA anticipates that only approximately \$56 million of the \$196 million awarded per year will be spent directly on materials for pipeline infrastructure. PHMSA further estimates that of this amount, less than approximately \$1.9 million per year will be spent on the products proposed to be covered under this waiver across all recipients. Accordingly, PHMSA believes that the purchasing power of the NGDISM program is simply not great enough to incentivize the market to begin domestic production of these parts in large enough quantities to meet the needs of NGDISM award recipients before the program is slated to end in FY26.

For similar reasons, PHMSA proposes to waive BABA requirements for these gas service risers and gas meters for expenditures made in a period of three years following publication of a Notice of Final Waiver.

In addition, the proposed BABA waiver would not affect recipient compliance with any other requirements of the NGDISM program, including requirements to ensure the security and

resilience of critical infrastructure, requirements to perform a site-specific environmental assessment pursuant to the National Environmental Policy Act, or requirements to comply with Executive Orders applicable to Federal financial assistance programs.

Under OMB Memorandum M–24–02, agencies are expected to assess “whether a significant portion of any cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products” as appropriate before granting a public interest waiver. PHMSA’s analysis has concluded that this assessment is not applicable to this waiver, as it is being proposed on the basis of nonavailability, rather than public interest or unreasonable cost.

PHMSA will consider all comments received in the initial 15-day comment period during our consideration of the proposed waiver, as required by section 70914(c)(2) of the IJA. Comments received after this period, but before notice of our finding is published in the **Federal Register**, will be considered to the extent practicable. PHMSA is specifically requesting comments on the demand for service regulators purchased through the NGDISM program to evaluate whether a waiver of BABA requirements for service regulators is warranted.

Issued in Washington, DC, on August 7, 2024, under authority delegated in 49 CFR 1.97.

Tristan H. Brown,
Deputy Administrator.

[FR Doc. 2024–17993 Filed 8–12–24; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Regulations Requiring Records To Be Made and Retained by Financial Institutions, Banks, and Providers and Sellers of Prepaid Access

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comments on the proposed renewal, without change, of existing information collection

requirements found in Bank Secrecy Act regulations that require certain financial institutions to make and retain records associated with certain types of transactions, including but not limited to funds transfers, transmittals of funds, and prepaid access transactions. This request for comments is made pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments are welcome and must be received on or before October 15, 2024.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal E-rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN–2024–0012 and Office of Management and Budget (OMB) control numbers 1506–0058 and 1506–0059.

- *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN–2024–0012 and OMB control numbers 1506–0058 and 1506–0059.

Please submit comments by one method only. Comments will be reviewed consistent with the Paperwork Reduction Act of 1995 and applicable OMB regulations and guidance. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

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

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Provisions

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Foreign Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)¹ and other legislation, including the Anti-Money Laundering Act of 2020 (AML Act).² The BSA is codified at 12 U.S.C. 1829b and 1951–1960 and 31 U.S.C. 5311–5314 and 5316–5336, and notes thereto,

¹ USA PATRIOT Act, Public Law 107–56, 115 Stat. 272 (2001).

² The AML Act was enacted as Division F, sections 6001–6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 3388.

with implementing regulations at 31 CFR chapter X.

The BSA authorizes the Secretary of the Treasury (Secretary) to, *inter alia*, require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, or regulatory matters, risk assessments or proceedings, or in the conduct of intelligence or counter-intelligence activities to protect against terrorism, and to implement anti-money laundering/countering the financing of terrorism (AML/CFT) programs and compliance procedures.³ The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.⁴

The Annunzio-Wylie Anti-Money Laundering Act (“Annunzio Wylie”) amended the BSA by authorizing the Secretary and the Board of Governors of the Federal Reserve System (the “Board”) to jointly issue regulations requiring insured depository institutions to maintain records of domestic funds transfers.⁵ The Secretary, but not the Board, is authorized to promulgate recordkeeping requirements for domestic wire transfers by nonbank financial institutions.⁶ In addition, Annunzio-Wylie authorized the Secretary and the Board, after consultation with state banking supervisors, to jointly issue regulations requiring insured depository institutions and certain nonbank financial institutions to maintain records of international funds transfers and transmittals of funds.⁷

A. 31 CFR 1010.410(a) Through (c)—Records To Be Made and Retained by Financial Institutions

Pursuant to 31 CFR 1010.410(a) through (c),⁸ financial institutions⁹ are required to retain either the original or a copy of the following:

- A record of each extension of credit in excess of \$10,000, except if the extension of credit is secured by an interest in real property. The record must include the name and address of the person to whom the extension of credit is made, and the amount, purpose, and date of the extension of credit.¹⁰
- A record of each request received or given regarding any transaction resulting in (or intended to result in but later canceled if such a record is normally made) the transfer of currency or other monetary instruments, funds, checks, investment securities, or credit of more than \$10,000 to or from any person, account, or place outside the United States.¹¹
- A record of each request given to another financial institution or other person located in or outside of the United States, regarding a transaction intended to result in a transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit of more than \$10,000 to a person, account, or place outside the United States.¹²

B. 31 CFR 1010.410(e) and (f) and 31 CFR 1020.410(a)—Information Required To Be Collected, Retained, and Transmitted Under the Recordkeeping and Travel Rules

On January 3, 1995, Treasury and the Board jointly issued a recordkeeping rule (the “Recordkeeping Rule”) that requires banks and nonbank financial institutions to collect and retain information related to funds transfers and transmittals of funds in amounts of \$3,000 or more.¹³ The Recordkeeping Rule is intended to help law enforcement and regulatory authorities to detect, investigate, and prosecute

money laundering, and other financial crimes by preserving an information trail about persons sending and receiving funds through the funds transfer system.

At the same time, FinCEN issued a separate rule (the “Travel Rule”) that requires banks and nonbank financial institutions to transmit information on certain funds transfers and transmittals of funds to other banks or nonbank financial institutions participating in the transfer or transmittal.¹⁴ The Recordkeeping Rule and the Travel Rule complement each other. Generally, as noted below, the Recordkeeping Rule requires financial institutions to collect and retain the information that, under the Travel Rule, must be included with transmittal orders, although the Recordkeeping Rule also has other applications in addition to ensuring that information is available to include with funds transfers. FinCEN issued the Travel Rule pursuant to statutory authority that permits the Secretary to require domestic financial institutions and nonfinancial trades or businesses to maintain appropriate procedures to ensure compliance with the BSA or to guard against money laundering.¹⁵

Requirements in the Recordkeeping Rule related to funds transfers are codified at 31 CFR 1020.410(a). Requirements in the Recordkeeping Rule related to transmittals of funds processed by nonbank financial institutions are codified at 31 CFR 1010.410(e). The Travel Rule consists of a single provision, codified at 31 CFR 1010.410(f), that applies to all transmittals of funds, including those processed by banks.¹⁶ This notice proposes to renew the regulations that implement the Recordkeeping Rule and the Travel Rule, along with other regulatory requirements in 31 CFR 1010.410, 1020.410, and 1022.420.¹⁷

The Recordkeeping Rule and Travel Rule collectively require banks and nonbank financial institutions to collect, retain, and transmit information on funds transfers and transmittals of funds in amounts of \$3,000 or more.

³ See 31 U.S.C. 5311.

⁴ Treasury Order 180–01 (Jan. 14, 2020); *see also* 31 U.S.C. 310(b)(2)(I) (providing that FinCEN Director “[a]dminister the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary.”).

⁵ Public Law 103–325, sec. 1515 (1992); 12 U.S.C. 1829b(b)(2).

⁶ 12 U.S.C. 1953.

⁷ 12 U.S.C. 1829b(b)(3). The term “funds transfer,” as defined in FinCEN regulations, applies exclusively to transactions that are processed by banks. *See* 31 CFR 1010.100(w). A “transmittal of funds” is broader, as it includes not only funds transfers, but transactions processed by nonbank financial institutions. *See* 31 CFR 1010.100(ddd).

⁸ Pursuant to 31 CFR 1010.410(d), a financial institution must retain a record of such information for such period of time as the Secretary may require in an order issued under 31 CFR 1010.370(a), not to exceed five years. The recordkeeping burden for 31 CFR 1010.410(d) is accounted for under OMB control number 1506–0056, which applies to 31 CFR 1010.370(a).

⁹ Unlike 31 CFR 1010.410(e), which applies only to financial institutions other than banks, the requirements of 31 CFR 1010.410(a) through (c) apply to all “financial institutions” as defined in 31 CFR 1010.100(t).

¹⁰ 31 CFR 1010.410(a).

¹¹ 31 CFR 1010.410(b).

¹² 31 CFR 1010.410(c).

¹³ 60 FR 220 (Jan. 3, 1995).

¹⁴ 60 FR 234 (Jan. 3, 1995).

¹⁵ *Id.* The authority is codified at 31 U.S.C. 5318(a)(2).

¹⁶ *See supra* note 7.

¹⁷ OMB control number 1506–0058 applies to 31 CFR 1010.410 and 31 CFR 1022.420. OMB control number 1506–0059 applies to 31 CFR 1020.410. On October 27, 2020, the Board and FinCEN (collectively, the “Agencies”) issued a joint notice of proposed rulemaking to modify the thresholds in the Recordkeeping Rule and the Travel Rule. *See* 85 FR 68005 (October 27, 2020). This notice and request for comments under the PRA only pertains to the current regulatory requirements of the Recordkeeping Rule and the Travel Rule.

Under the Recordkeeping Rule, the originator's bank or transmitter's financial institution must collect and retain the following information: (1) name and address of the originator or transmitter; (2) the amount of the payment or transmittal order; (3) the execution date of the payment or transmittal order; (4) any payment instructions received from the originator or transmitter with the payment or transmittal order; and (5) the identity of the beneficiary's bank or recipient's financial institution. In addition, the originator's bank or transmitter's financial institution must retain the following information if it receives that information from the originator or transmitter: (1) name and address of the beneficiary or recipient; (2) account number of the beneficiary or recipient; and (3) any other specific identifier of the beneficiary or recipient. The originator's bank or transmitter's financial institution is required to verify the identity of the person placing a payment or transmittal order—and collect and retain various items of information identifying the person—if the order is made in person and the person placing the order is not an established customer.¹⁸ Similarly, should the beneficiary's bank or recipient's financial institution deliver the proceeds to the beneficiary or recipient in person, the bank or nonbank financial institution must verify the identity of the beneficiary or recipient—and collect and retain various items of information identifying the beneficiary or recipient—if the beneficiary or recipient is not an established customer. Finally, an intermediary bank or financial institution—and the beneficiary's bank or recipient's financial institution—must retain originals or copies of payment or transmittal orders.

Under the Travel Rule, the originator's bank or transmitter's financial institution is required to include information, including all information required under the Recordkeeping Rule, in a payment or transmittal order sent by the bank or nonbank financial institution to another bank or nonbank financial institution in the payment chain. An intermediary bank or financial institution is also required to transmit this information to other banks or nonbank financial institutions in the payment chain, to the extent the information is received by the

intermediary bank or financial institution.

C. 31 CFR 1020.410(c)—Additional Records To Be Made and Retained by Banks

Pursuant to 31 CFR 1020.410(c), banks must retain either the original or a copy of the following:¹⁹

- Each document granting signature authority over each deposit or share account, including any notations, if such are normally made, of specific identifying information to verify the identity of the signer.²⁰
- A record on each deposit or share account, showing each transaction in, or with respect to, that account.²¹
- Each check, clean draft, or money order drawn on the bank or issued and payable by it, with certain exceptions.²²
- A record of each item in excess of \$100 comprising a debit to a customer's deposit or share account, with certain exceptions.²³
- A record of each item, including checks, drafts, or transfers of credit of more than \$10,000 remitted or transferred to a person, account, or place outside the United States.²⁴
- A record of each remittance or transfer of funds, or of currency, other monetary instruments, checks, investment securities, or credit, of more than \$10,000 to a person, account, or place outside the United States.²⁵
- Each check or draft in excess of \$10,000 drawn on or issued by a foreign bank which the domestic bank has paid or presented to a nonbank drawee for payment.²⁶
- Each item, including checks, drafts or transfers of credit of more than \$10,000 received directly and not through a domestic financial institution, by letter, cable or any other means, from a bank, broker or dealer in foreign exchange outside the United States.²⁷
- A record of each receipt of currency, other monetary instruments,

¹⁹ Under 31 CFR 1020.410(b), a bank is required to secure and maintain a record of the taxpayer identification numbers of persons who have purchased or redeemed certificates of deposit or opened deposit or share accounts during the period from June 30, 1972 to October 1, 2003. Insofar as deposit and share accounts are concerned, customer identification program (CIP) requirements have effectively superseded that provision. See 31 CFR 1020.220. CIP requirements are not considered in connection with this OMB control number renewal.

²⁰ 31 CFR 1020.410(c)(1).

²¹ 31 CFR 1020.410(c)(2).

²² 31 CFR 1020.410(c)(3). See 31 CFR 1020.410(c)(3) for a list of exceptions to the recordkeeping requirements.

²³ 31 CFR 1020.410(c)(4).

²⁴ 31 CFR 1020.410(c)(5).

²⁵ 31 CFR 1020.410(c)(6).

²⁶ 31 CFR 1020.410(c)(7).

²⁷ 31 CFR 1020.410(c)(8).

investment securities or checks, and of each transfer of funds or credit, of more than \$10,000 received on any one occasion directly and not through a domestic financial institution, from a bank, broker or dealer in foreign exchange outside the United States.²⁸

- Records prepared or received by a bank in the ordinary course of business, which would be needed to reconstruct a transaction account and to trace a check in excess of \$100 deposited in such account through its domestic processing system or to supply a description of a deposited check in excess of \$100. This requirement is only applicable to demand deposits.²⁹

- A record containing the name, address, and taxpayer identification number (TIN), if available, of the purchaser of each certificate of deposit, as well as a description of the instrument, notation of the method of payment, and the date of the transactions.³⁰

- A record containing the name, address, and TIN, if available, of any person presenting a certificate of deposit for payment, as well as a description of the instrument and the date of the transaction.³¹

- Each deposit slip or credit ticket reflecting a transaction in excess of \$100 or the equivalent record for direct deposit or other wire transfer deposit transactions. The record must include the amount of any currency involved.³²

D. 31 CFR 1022.420—Additional Records To Be Maintained by Providers and Sellers of Prepaid Access

Providers and sellers of prepaid access are defined as money services businesses (MSBs) for purposes of FinCEN regulations.³³ BSA regulations specific to MSBs are found at 31 CFR part 1022. Providers and sellers of prepaid access must maintain access to transactional records generated in the ordinary course of business that would be needed to reconstruct prepaid access activation, loads, reloads, purchases, withdrawals, transfers, or other prepaid-related transactions.

II. Paperwork Reduction Act of 1995 (PRA)³⁴

Title: Records to be made and retained by financial institutions (31 CFR

²⁸ 31 CFR 1020.410(c)(9).

²⁹ 31 CFR 1020.410(c)(10).

³⁰ 31 CFR 1020.410(c)(11).

³¹ 31 CFR 1020.410(c)(12).

³² 31 CFR 1020.410(c)(13).

³³ See 31 CFR 1010.100(ff)(4) (providers of prepaid access); 31 CFR 1010.100(ff)(7) (sellers of prepaid access).

³⁴ Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

¹⁸ “Established customers” include persons with accounts at the financial institution and certain persons with identifying information on file at the financial institution. See 31 CFR 1010.100(p).

1010.410), records to be made and retained by banks (31 CFR 1020.410), and additional records to be maintained by providers and sellers of prepaid access (31 CFR 1022.420).³⁵

OMB Control Number: 1506–0058 and 1506–0059.³⁶

Form Number: Not applicable.

Abstract: FinCEN is issuing this notice to renew the OMB control numbers for the regulations that require certain financial institutions to make and retain records associated with certain types of transactions, including funds transfers, transmittals of funds,

and prepaid access transactions, among other types of transactions.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Type of Review: Renewal without change of a currently approved information collection.

Frequency: As required.

Estimated Number of Respondents: 273,832 financial institutions.³⁷

Estimated Recordkeeping Burden: In Part 1 of this analysis, FinCEN describes the distribution of the estimated number of financial institutions, by type, affected by each of the regulatory

requirements. In Part 2, FinCEN describes the primary characteristics of each of the regulatory requirements. In addition, in Part 2, FinCEN proposes for review and comment a renewal of the calculation of the annual PRA burden that includes a scope and methodology similar to that used in the 2020 notice to renew these information collections.³⁸

Part 1. Distribution of the Financial Institutions Covered by This Notice

The distribution of financial institutions, by type, covered by this notice is reflected in table 1 below:

TABLE 1—DISTRIBUTION OF FINANCIAL INSTITUTIONS COVERED BY THIS NOTICE, BY TYPE OF FINANCIAL INSTITUTION

Type of financial institution	Number of financial institutions
Banks with a Federal functional regulator (FFR)	^a 9,462
Banks lacking an FFR	^b 600
Brokers or dealers in securities	^c 3,478
Principal MSBs, including:	
MSBs that conduct money transmission	16,897
MSBs that conduct money transmission but do not provide or sell prepaid access	14,588
MSBs that conduct money transmission and provide or sell prepaid access	2,309
MSBs that do not conduct money transmission and are providers or sellers of prepaid access	355
Agent MSBs	^e 229,161
Telegraph companies	^f 0
Casinos and card rooms	^g 1,277
Futures commission merchants and introducing brokers in commodities	^h 954
Mutual funds	ⁱ 1,400
Total	273,832

^a This estimate of the total number of banks with an FFR, including credit unions, is based on end of year 2023 data as provided by each of the FFRs, respectively. The FFRs are the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration.

^b This estimate of active entries as of year-end 2023 incorporates data from both public and non-public sources, including: Call Reports; various State banking/financial institution regulators' websites and directories; the Federal Reserve Board of Governors' Master Account and Services database (<https://federalreserve.gov/paymentsystems/master-account-and-services-database-existing-access.htm>); and data from the Commonwealth of Puerto Rico Oficina del Comisionado de Instituciones Financieras (OCIF); and was derived in consultation with staff from the Internal Revenue Service's Small Business/Self-Employed Division.

^c Estimate based on December 2023 file downloaded "from Data—Company Information About Active Broker-Dealers," (accessed Feb. 28, 2024), available at <https://www.sec.gov/help/foiadocsbdfao>.

^d The definition of MSB (31 CFR 1010.100(ff)) covers both principal MSBs and agents. This value represents the number of uniquely identifiable principal MSBs with indicia of ongoing operations as of year-end 2023 rounded to the nearest hundred. The estimate is derived from FinCEN's publicly available MSB data (accessed Feb. 28, 2024), available at <https://www.fincen.gov/msb-registrant-search>. Estimates of subcategories are based on registrants' self-reported activities.

^e In the absence of public comments in prior renewals of the OMB control number applicable to this regulatory requirement, FinCEN considers it reasonable to continue to rely upon its previous estimate that the number of agent MSBs remains approximately 229,161. This value was previously published in the 2020 notice to renew OMB control numbers 1506–0020, 1506–0030, and 1506–0035 (85 FR 49420 (Aug. 13, 2020)).

^f Although telegraph companies are defined as financial institutions under 31 CFR 1010.100(t), FinCEN is not aware of any telegraph companies that would be affected by the Recordkeeping or Travel Rule.

^g Estimate based on the American Gaming Association (AGA) "State of Play," reporting 486 commercial casinos and 525 tribal casinos as of December 31, 2023 (accessed Feb. 28, 2024), available at <https://www.americangaming.org/state-of-play/>. As of December 31, 2022, there were also 266 card rooms as published in the AGA's "State of the States" annual report, p. 16 (accessed Feb. 28, 2024), available at <https://www.americangaming.org/wp-content/uploads/2023/05/AGA-State-of-the-States-2023.pdf>.

³⁵ All the records required to be made and retained under 31 CFR 1010.410, 1020.410, and 1022.420 are required to be retained for five years pursuant to 31 CFR 1010.430(d).

³⁶ OMB control number 1506–0058 applies to 31 CFR 1010.410 and 31 CFR 1022.420. OMB control number 1506–0059 applies to 31 CFR 1020.410.

³⁷ Table 1 below describes the distribution of the types of financial institutions covered by this notice. This number is significantly larger than

FinCEN's estimate of the number of respondents in earlier PRA discussions of this subject. It reflects FinCEN's considered opinion that agent MSBs, as well as principal MSBs, should be considered directly subject to the information collections that are the subject of this notice. This change of opinion should not be construed as a suggestion by FinCEN that the information collections themselves have changed significantly. Rather, it reflects FinCEN's continuous monitoring of its economic

analysis practices in an effort to improve overall accuracy and consistency across all of its regulatory products.

³⁸ See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Regulations Requiring Records to be Made and Retained by Financial Institutions, Banks, and Providers and Sellers of Prepaid Access*, 85 FR 84105 (Dec. 23, 2020).

^h The number of futures commissions merchants as of December 31, 2023 was obtained from data available at CFTC Financial Data for FCMs (accessed Mar. 1, 2024), available at <https://www.cftc.gov/MarketReports/financialcmdata/index.htm>. To prevent double counting in burden estimates, 35 covered financial institutions that are also affected entities as broker-dealers were removed from the count; the count of introducing brokers in commodities as of year-end 2023 was provided by the CFTC.

ⁱ This estimate of the number of active mutual funds as of year-end 2023 is based on Form N-CEN filings received by the U.S. Securities and Exchange Commission through January 20, 2023, as represented by data downloaded from SEC Open Data (accessed Feb. 29, 2024), available at <https://www.sec.gov/dera/data/form-ncen-data-sets>.

31 CFR 1010.410(a) Through (c)

Description of Recordkeepers:

Financial institutions providing extensions of credit in excess of \$10,000 (other than those secured by real property), and participating in transfers of funds, currency, other monetary instruments, checks, investment securities, or credit of more than \$10,000 to or from the United States. FinCEN expects that while these requirements apply equally to all of types of financial institutions listed in table 1 (above), the different nature and volume of the business of these different types of financial institutions means that these requirements are likely, in practice, to impose a greater recordkeeping burden on some types of financial institutions than on others. In particular, agent MSBs are typically significantly smaller than principal MSBs, engage in a significantly lower volume of transactions, and consequently should experience a significantly lower burden on an institution-by-institution basis.

31 CFR 1010.410(d)

As noted above, the recordkeeping burden for 31 CFR 1010.410(d) is accounted for under OMB control number 1506–0056, which applies to 31 CFR 1010.370(a). A notice to renew OMB control number 1506–0056 was published in the **Federal Register** in February 2024.³⁹

31 CFR 1010.410(e)

Description of Recordkeepers:

Financial institutions other than banks that conduct transmittals of funds in the amount of \$3,000 or more. FinCEN expects that money transmitters (a type of MSB) will comprise the overwhelming majority. Moreover, FinCEN expects that principal money transmitters will engage in significantly more activity of this kind than agent money transmitters. FinCEN is interested to receive comments on whether these expectations are sound, and if not, then the degree to which different categories of financial

institutions will be affected differently by this recordkeeping requirement.

31 CFR 1010.410(f)

Description of Recordkeepers:

Financial institutions, including banks, that are the originator's bank, transmitter's financial institution or an intermediary bank or financial institution in a funds transfer or other transmittal of funds in the amount of \$3,000 or more. FinCEN expects primarily banks, including credit unions, and money transmitters (one type of MSB) to comprise the population of affected financial institutions. Moreover, FinCEN expects that principal money transmitters will engage in significantly more activity of this kind than agent money transmitters. FinCEN is interested to receive comments on whether these expectations are sound, and if not then the degree to which different categories of financial institutions will be affected differently by this recordkeeping requirement.

31 CFR 1020.410

Description of Recordkeepers: Banks, including credit unions, that conduct funds transfers in amounts of \$3,000 or more, and banks that conduct transactions addressed in 31 CFR 1020.410(c).

31 CFR 1022.420

Description of Recordkeepers: MSBs that are providers or sellers of prepaid access, as defined in 31 CFR 1010.100(ff)(4) and (7) and that conduct prepaid access-related transactions.

In connection with a variety of initiatives FinCEN is undertaking to implement the AML Act, FinCEN intends to conduct, in the future, additional assessments of the PRA burden associated with BSA requirements and responsive modifications to current estimates.

Part 2. Annual PRA Burden and Cost

OMB Control Number 1506–0058

31 CFR 1010.410(a) Through (c)

Each financial institution must retain an original or a copy of records related to extensions of credit in excess of \$10,000 (other than those secured by real property), and an original or copy of records related to transfers of funds, currency, other monetary instruments,

checks, investment securities, or credit of more than \$10,000 to or from the United States.⁴⁰ Due to the challenges of obtaining the total number of such records required to be maintained per financial institution, in its most recent control number renewal FinCEN estimated that the average annual recordkeeping burden per financial institution for these requirements was 50 hours per financial institution.⁴¹ In the absence of additional data or other information necessary to construct a more accurate estimate of total burden, FinCEN (1) continues to estimate that the average annual hourly burden of complying with 31 CFR 1010.410(a) through (c) is 50 hours per financial institution that is not an agent MSB, and 5 hours per agent MSB, (2) requests public comment on the reasonableness and accuracy of these estimates, and (3) requests any data, studies, and quantitative or qualitative reports that would inform a revised estimate of burden.⁴²

Based on an estimate of approximately 273,832 affected financial institutions⁴³ multiplying 44,671 (financial institutions other than agent MSBs) by 50 (hours) and 229,161 (agent MSBs) by 5 (hours) results in a total estimate of annual hourly burden of approximately 3,379,355 hours.

31 CFR 1010.410(e)

Each nonbank financial institution that conducts transmittals of funds in amounts of \$3,000 or more must collect and retain information related to these transactions. Due to the challenges of obtaining the total number of transmittals of funds of \$3,000 or more conducted per nonbank financial institution, and the uncertain significance for burden calculation of the maintenance of different numbers of such records by different financial institutions, FinCEN estimated, in its most recent control number renewal, that the average annual recordkeeping burden per financial institution was approximately 16 hours per affected

⁴⁰ 31 CFR 1010.410(a) through (c).

⁴¹ See *supra* note 38.

⁴² See *infra* Requests for Comment part (ii).

⁴³ See *supra* table 1. 30,952 represents the number of financial institutions listed in the title of this notice, other than MSBs that are providers and sellers of prepaid access, because such MSBs would not conduct transactions described in 31 CFR 1010.410(a) through (c).

³⁹ See FinCEN, *Agency Information Collection Activities: Proposed Renewal; Comment Request; Renewal Without Change of Bank Secrecy Act Regulations Requiring the Reports of Certain Domestic Transactions*, 89 FR 13802 (Feb. 23, 2024).

financial institution.⁴⁴ In the absence of information suggesting a more accurate way of estimating total burden, FinCEN continues to estimate that the average annual hourly burden to comply with 31 CFR 1010.410(e) is 16 hours per financial institution. As described above and detailed below,⁴⁵ public comment is invited.

Based on an estimate of approximately 16,897 MSBs⁴⁶ providing money transmission services, multiplying by 16 (hours) results in a total estimate of annual hourly burden of approximately 270,352 hours.

31 CFR 1010.410(f)

Each financial institution must transmit information on funds transfers and transmittals of funds when acting as the originator's bank, the transmitter's financial institution or an intermediary bank or financial institution. Due to the challenges of obtaining the total number of funds transfers or transmittals of funds for which a financial institution was acting as the originator's bank, the transmitter's financial institution, or an intermediary bank or financial institution, and the uncertain significance for burden calculation of the maintenance of different numbers of such records by different financial institutions, FinCEN estimated, in its most recent control number renewal, that the annual recordkeeping burden per financial institution was an average of 12 hours per affected financial institution.⁴⁷ In the absence of information suggesting a more accurate way of estimating total burden, FinCEN continues to estimate that the average annual hourly burden to comply with

31 CFR 1010.410(f) is 12 hours per financial institution.

26,959 banks and MSBs conducting money transmission,⁴⁸ multiplied by 12 hours, results in a total annual hourly burden estimate of 323,508 hours.

31 CFR 1022.420

Each provider or seller of prepaid access is required to maintain access to transactional records generated in the ordinary course of business that would be needed to reconstruct prepaid access activation, loads, reloads, purchases, withdrawals, transfers, or other prepaid-related transactions. Due to the challenges of obtaining the total number of prepaid access transactions, and the uncertain significance for burden calculation of the maintenance of different numbers of such records by different financial institutions, FinCEN estimated, in its most recent control number renewal, that the annual recordkeeping burden per financial institution was 16 hours for every affected financial institution.⁴⁹ In the absence of information suggesting a more accurate way of estimating total burden, FinCEN continues to estimate that the average annual hourly burden to comply with 31 CFR 1022.420 is 16 hours per financial institution.

2,664 MSBs which are providers or sellers of prepaid access,⁵⁰ multiplied by 16 hours, results in a total annually hourly burden estimate of 42,624 hours.

*Total Annual PRA Burden for OMB Control Number 1506-0058: 4,015,839 hours.*⁵¹

OMB Control Number 1506-0059

31 CFR 1020.410

Banks, including credit unions, are required to: (1) collect and retain

information on funds transfers when conducting funds transfers in amounts of \$3,000 or more; and (2) retain an original or copy of records when conducting transactions addressed in 31 CFR 1020.410(c). Due to the challenges of obtaining the total number of funds transfers of \$3,000 or more conducted by each bank, and the challenges of obtaining the total number of transactions conducted by each bank that would trigger recordkeeping requirements in 31 CFR 1020.410(c), and the uncertain significance for burden calculation of different financial institutions conducting different numbers of such transactions, FinCEN estimated, in its most recent control number renewal, that the annual recordkeeping burden per bank was an average of 100 hours per affected financial institution.⁵² In the absence of information suggesting a more accurate way of estimating total burden, FinCEN continues to estimate that the average annual hourly burden to comply with the recordkeeping requirements in 31 CFR 1020.410 is 100 hours per bank.

10,062 banks⁵³ multiplied by 100 hours results in a total annual hourly burden estimate of 1,006,200 hours.

Total Annual PRA Burden for OMB Control Number 1506-0059: 1,006,200 hours.

Total Annual PRA Burden for OMB Control Numbers 1506-0058 and 1506-0059.

FinCEN's estimate of the total annual PRA burden (5,022,039 hours) includes each of the recordkeeping requirements being renewed in this notice, detailed in table 2 below:

TABLE 2—DISTRIBUTION OF ESTIMATED TOTAL ANNUAL BURDEN HOURS PER REQUIREMENT BY TYPE OF AFFECTED FINANCIAL INSTITUTIONS

Regulatory requirement	Affected financial institution type	Number of financial institutions	Annual burden estimate per financial institution in hours	Total annual burden hours per regulatory requirement
31 CFR 1010.410(a)–(c)	Financial institutions as defined in 31 CFR 1010.100(t), excluding agent MSBs.	44,671	50	2,233,550
	Financial institutions as defined in 31 CFR 1010.100(t) that are exclusively agent MSBs.	229,161	5	1,145,805
31 CFR 1010.410(e)	MSBs that conduct money transmission	16,897	16	270,352
31 CFR 1010.410(f)	Banks and MSBs the conduct money transmission.	26,959	12	323,508

⁴⁴ See *supra* note 38.

⁴⁵ See *infra* Requests for Comment part (ii).

⁴⁶ See *supra* table 1 for the estimated number of MSBs that provide money transmission services.

⁴⁷ See *supra* note 38.

⁴⁸ See *supra* table 1. 26,959 comprises 10,062 banks and 16,897 MSBs that provide money transmission services.

⁴⁹ See *supra* note 38.

⁵⁰ See *supra* table 1 for the total number of MSBs that are providers or sellers of prepaid access.

⁵¹ 3,379,355 hours (31 CFR 1010.410(a)-(c)) + 270,352 hours (31 CFR 1010.410(e)) + 323,508 hours (31 CFR 1010.410(f)) + 42,624 hours (31 CFR 1022.420) = 4,015,839 hours.

⁵² See *supra* note 38.

⁵³ See *supra* table 1 for the total number of banks.

TABLE 2—DISTRIBUTION OF ESTIMATED TOTAL ANNUAL BURDEN HOURS PER REQUIREMENT BY TYPE OF AFFECTED FINANCIAL INSTITUTIONS—Continued

Regulatory requirement	Affected financial institution type	Number of financial institutions	Annual burden estimate per financial institution in hours	Total annual burden hours per regulatory requirement
31 CFR 1022.420	MSBs that are providers or sellers of prepaid access.	2,664	16	42,624
31 CFR 1020.410	Banks	10,062	100	1,006,200
Total annual burden hours .....	.....	.....	5,022,039	.....

FinCEN is utilizing the same fully loaded composite hourly wage rate of \$106.30 utilized in the 2024 notices of proposed rulemaking (NPRMs) entitled Customer Identification Programs for Registered Investment Advisers and

Exempt Reporting Companies and Anti-Money Laundering and Countering the Financing of Terrorism Programs, as well as in recent 60-Day Notices to renew OMB control numbers

corresponding to specific BSA regulations.⁵⁴

The total estimated cost of the annual PRA burden is \$533,842,745.70, as reflected in table 3 below:

TABLE 3—ESTIMATED TOTAL COST OF ANNUAL PRA BURDEN

Regulatory requirement	Burden hours	Wage rate	Total cost
31 CFR 1010.410(a)–(c)	3,379,355	\$106.30	\$359,225,436.50
31 CFR 1010.410(e)	270,352	106.30	28,738,417.60
31 CFR 1010.410(f)	323,508	106.30	34,388,900.40
31 CFR 1022.420	42,624	106.30	4,530,931.20
31 CFR 1020.410	1,006,200	106.30	106,959,060.00
Total annual cost .....	.....	.....	533,842,745.70

Estimated Number of Respondents: 273,832 financial institutions, as set out in table 1.

Estimated Total Annual Recordkeeping Burden: The estimated total annual PRA burden is approximately 5,022,039 hours, as set out in table 2.

Estimated Total Annual Recordkeeping Cost: The estimated total annual PRA cost is approximately \$533,842,745.70 as set out in table 3.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (i) whether the collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (ii) the accuracy of the agency's estimate of the burden of the collection of information; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; (iv) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (v) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Andrea M. Gacki,

Director, Financial Crimes Enforcement Network.

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BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Anti-Money Laundering Program Requirements for Casinos

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

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comments on the proposed renewal, without change, of existing information collection requirements found in Bank Secrecy Act regulations that require casinos to develop and implement written anti-money laundering programs. This notice does not address requirements proposed under section 6101(b) of the Anti-Money Laundering Act of 2020. Paperwork and respondent burden for those requirements are addressed in a

⁵⁴ See, e.g., FinCEN and SEC, *NPRM Customer Identification Programs for Registered Investment Advisers and Exempt Reporting Advisers*, 89 FR 44571 (May 21, 2024); FinCEN, *NPRM Anti-Money Laundering and Countering the Financing of Terrorism Programs NPRM*, 89 FR 55428 (July 3,

2024); FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Customer Identification Program Regulatory Requirements for Certain Financial Institutions*, 89 FR 51940 (June 20, 2024); FinCEN, *Agency Information Collection*

Activities; Proposed Renewal; Comment Request; Renewal Without Change of Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions and for Private Banking Accounts, 89 FR 49273, (June 11, 2024).

separate notice of proposed rulemaking. This request for comments is made pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments are welcome and must be received on or before October 15, 2024.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal E-rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN–2024–0016 and Office of Management and Budget (OMB) control number 1506–0051.

- *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN–2024–0016 and OMB control number 1506–0051.

Please submit comments by one method only. Comments will be reviewed consistent with the Paperwork Reduction Act of 1995 and applicable OMB regulations and guidance. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

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

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Provisions

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Foreign Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)¹ and other legislation, including the Anti-Money Laundering Act of 2020 (AML Act).² The BSA is codified at 12 U.S.C. 1829b, 1951–1960 and 31 U.S.C. 5311–5314, 5316–5336, including notes thereto, with implementing regulations at 31 CFR chapter X.

The BSA authorizes the Secretary of the Treasury (Secretary) to, *inter alia*, require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, or regulatory matters, risk assessments or

proceedings, or in the conduct of intelligence or counter-intelligence activities to protect against terrorism, and to implement anti-money laundering and countering the financing of terrorism (AML/CFT) programs and compliance procedures.³ The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.⁴

Pursuant to 31 U.S.C. 5318(h)(1), financial institutions must establish AML/CFT programs to guard against money laundering and the financing of terrorism.⁵ Such programs must include, at a minimum: (a) the development of internal policies, procedures, and controls; (b) the designation of a compliance officer; (c) an ongoing employee training program; and (d) an independent audit function to test programs.⁶ On March 12, 1993, FinCEN issued regulations, under separate statutory authority codified at 31 U.S.C. 5318(a)(2), requiring casinos to develop and implement written BSA compliance programs.⁷ FinCEN subsequently amended those regulations after passage of the USA PATRIOT Act to state that a casino would be “deemed to satisfy the requirements of 31 U.S.C. 5318(h)(1) if it implements and maintains” an AML program, as described in” 31 CFR 1021.210(b).⁸

This notice renews the OMB control number associated with the casino AML program regulations. This notice is not renewing the OMB control numbers associated with other types of financial institutions’ AML program regulatory requirements, which were renewed as part of a separate notice published in

³ See 31 U.S.C. 5311.

⁴ Treasury Order 180–01 (Jan. 14, 2020); see also 31 U.S.C. 310(b)(2)(I) (providing that FinCEN Director “[a]dminister the requirements of subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary.”).

⁵ The provision was added to the BSA through Section 352 of the USA PATRIOT Act and authorizes FinCEN to prescribe minimum standards for AML programs and to exempt certain financial institutions from application of those standards. Section 6101(b) of the AML Act amended the provision to include explicit references to terrorism finance and to specify the factors that FinCEN must consider in prescribing minimum standards.

⁶ See 31 U.S.C. 5318(h)(1)(A)–(D).

⁷ See FinCEN, *Regulations Regarding Reporting and Recordkeeping Requirements by Casinos*, 58 FR 13538 (Mar. 12, 1993). The regulations were codified at 31 CFR 1021.210. Card clubs are included in the casino AML program regulations, and any reference to casinos used in BSA regulations includes card clubs, unless specifically noted. See 31 CFR 1010.100(t)(5)(iii).

⁸ See FinCEN, *Anti-Money Laundering Programs for Financial Institutions*, 67 FR 21110 (Apr. 29, 2002). The amended regulations are codified at 31 CFR 1021.210(a).

April 2024.⁹ This notice also does not address any changes to requirements governing AML programs that FinCEN is proposing to make pursuant to section 6101(b) of the AML Act; FinCEN addressed the paperwork and respondent burden of such proposed changes in the notice of proposed rulemaking (NPRM) entitled *Anti-Money Laundering and Countering the Financing of Terrorism Programs*, published in July 2024.¹⁰

II. Paperwork Reduction Act of 1995 (PRA)¹¹

Title: Anti-money laundering program requirements for casinos (31 CFR 1021.210, 31 CFR 1021.410(b)(10) 12).

OMB Control Number: 1506–0051.

Form Number: Not applicable.

Abstract: FinCEN is issuing this notice to renew the OMB control number for the AML program requirements for casinos.

Affected Public: Businesses or other for-profit institutions.

Type of Review: Renewal without change of a currently approved information collection.

Frequency: As required.

Estimated Number of Respondents: 1,277 casinos.¹³

Estimated Recordkeeping Burden: In Part 1 of this notice, FinCEN describes the distribution of the estimated number of casinos by type. In Part 2, FinCEN proposes for review and comment a renewal of the calculation of the annual PRA burden that includes a scope and methodology similar to that used in the 2020 notice to renew the OMB control number for the casino AML program requirements.¹⁴

Part 1. Distribution of the Casinos Covered by this Notice

The distribution of casinos, by type, covered by this notice is reflected in table 1 below:

⁹ See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Anti-Money Laundering Programs for Certain Financial Institutions*, 89 FR 29427 (Apr. 22, 2024).

¹⁰ See FinCEN, *Anti-Money Laundering and Countering the Financing of Terrorism Programs NPRM*, 89 FR 55428 (July 3, 2024).

¹¹ Public Law 104–13, 44 U.S.C. 3506(c)(2)(A).

¹² Pursuant to 31 CFR 1021.410(b)(10), casinos must retain a copy of their AML compliance programs.

¹³ Table 1 below sets forth a distribution of the types of casinos covered by this notice.

¹⁴ See FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Anti-Money Laundering Program Requirements for Casinos*, 85 FR 83676 (Dec. 22, 2020).

¹ USA PATRIOT Act, Pub. L. 107–56, 115 Stat. 272 (2001).

² The AML Act was enacted as Division F, sections 6001–6511, of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. 116–283, 134 Stat. 3388.

TABLE 1—DISTRIBUTION OF CASINOS COVERED BY THIS NOTICE, BY TYPE OF CASINO

Type of casino	Number of casinos
Casino	486
Tribal casino	525
Card club	266
Total number of casinos	^a 1,277

^a Estimate based on the American Gaming Association (AGA) “State of Play,” reporting 486 commercial casinos and 525 Tribal casinos as of December 31, 2023 (available at <https://www.americangaming.org/state-of-play/>, accessed February 28, 2024). As of December 31, 2022, there were also 266 card rooms as published in the AGA’s “State of the States” annual report, p. 16 (available at <https://www.americangaming.org/wp-content/uploads/2023/05/AGA-State-of-the-States-2023.pdf>, accessed February 28, 2024).

As noted above, 31 U.S.C. 5318(h) mandates that financial institutions establish AML/CFT programs to guard against money laundering and the financing of terrorism. Such programs must include, at a minimum: (a) the development of internal policies, procedures, and controls; (b) the designation of a compliance officer; (c) an ongoing employee training program; and (d) an independent audit function to test programs.¹⁵

The AML program regulations for casinos require casinos to implement AML programs that are reasonably designed.¹⁶ The AML program must be in writing and must be independently tested for compliance with a scope and frequency commensurate with the money laundering and terrorist financing risks posed by the products and services provided by the casino.¹⁷

In connection with a variety of initiatives FinCEN is undertaking to implement the AML Act, FinCEN intends to conduct, in the future, additional assessments of the PRA burden associated with BSA requirements.

Part 2. Annual PRA Burden and Cost

For purposes of estimating casino and card rooms’ AML program annual PRA burden(s), FinCEN continues to view the recordkeeping burden associated with AML program requirements as the sum of four discrete activities. The scope of the annual PRA burden and cost estimates of the casino AML program requirements in this renewal therefore remains subdivided as follows: maintaining and updating the AML program documentation (Activity A); storing the written AML program (Activity B);¹⁸ producing a copy of the written AML program if requested by regulatory examiners or law enforcement (Activity C); and complying with the requirements in 31 CFR 1021.210(b)(2)(v) and (vi), which are unique to casino AML program regulations (Activity D).¹⁹

For purposes of estimating the casino AML program annual PRA burden, FinCEN continues to estimate the hourly burden per activity using the same burden estimates that were used in the 2020 notice to renew the OMB control number for the casino AML program requirements.²⁰

- Activity A—FinCEN continues to estimate the incremental annual PRA burden of maintaining and updating a written AML program at an average of one hour per casino, consistent with the burden estimate in the 2020 renewal of

this OMB control number and in the renewal of the AML program requirements for other types of financial institutions in 2024.²¹

- Activity B—Required written AML programs are stored as electronic files. The estimated annual burden (five minutes per financial institution) represents the administrative burden involved in processing the storage of the written program. FinCEN continues to estimate the incremental annual PRA burden of storing an AML program at an average of five minutes per casino.

- Activity C—Producing the written AML program to regulatory or law enforcement agencies, upon their request, is performed electronically. Historically, FinCEN has estimated the annual burden of producing the written program at an average of five minutes per financial institution. This estimated annual burden represents the administrative burden involved in producing the program upon request once per year. FinCEN continues to estimate the incremental annual PRA burden of producing an AML program at five minutes per casino.

- Activity D—In the 2020 renewal of the casino AML program regulations, FinCEN estimated the annual PRA burden to comply with 31 CFR 1021.210(b)(2)(v) and (vi) would average approximately 99 hours per casino. FinCEN continues to estimate that the annual incremental PRA burden of complying with these requirements is 99 hours per casino.²²

Under these assumptions, FinCEN’s estimate of the annual incremental PRA burden is 127,912 hours, as detailed in table 2 below.

TABLE 2—DISTRIBUTION OF THE ESTIMATED TOTAL ANNUAL BURDEN HOURS PER REQUIREMENT

Required activities	Instances per year	Time per instance	Number of casinos	Total hourly burden
A. Maintaining and updating the written AML program.	1 per casino	1 hour	1,277	1,277
B. Storing the written AML program	1 per casino	5 minutes	1,277	* 106
C. Producing the AML program upon request	1 per casino	5 minutes	1,277	* 106

¹⁵ See 31 U.S.C. 5318(h)(1)(A)–(D).

¹⁶ 31 CFR 1021.210(b)(1).

¹⁷ 31 CFR 1021(b)(2); see also 31 CFR 1021.410(b)(10).

¹⁸ Pursuant to 31 CFR 1021.210(b)(1) and 31 CFR 1021.410(b)(10), respectively, a casino’s AML program must be reduced to writing, and the casino must retain a copy of the program.

¹⁹ Pursuant to 31 CFR 1021.210(b)(2)(v), a casino’s AML program must include procedures for using all available information to determine: (i) when required by 31 CFR Chapter X, a person’s name, address, social security number, and other information, and verification of the same; (ii) the occurrence of any transaction or pattern of transactions required to be reported pursuant to 31

CFR 1021.320; and (iii) whether any record described in subpart D of part 1010 of chapter X must be made and retained. Pursuant to 31 CFR 1021.210(b)(2)(vi), casinos with automated data processing systems must implement AML programs that provide for the use of automated programs to aid in assuring compliance.

²⁰ See *supra* note 14.

²¹ See *supra* note 9.

²² If it becomes necessary to consider how to allocate the burden of Activity D between the activities required by 31 CFR 1021.210(b)(2)(v) and (vi) respectively, FinCEN is of the opinion that (vi) contributes a *de minimis* burden to the activity. Pursuant to 31 CFR 1021.210(b)(2)(vi), “[f]or casinos that have automated data processing systems,” the casino’s AML program must provide

for “the use of automated programs to aid in assuring compliance.” While this may have been a measurable incremental source of burden in the earlier stages of businesses adopting automated compliance programs (particularly in the casino industry), FinCEN believes such programs have since been widely adopted for a variety of sound business reasons independent of FinCEN regulatory requirements. As these programs are now effectively ubiquitous in the industry, FinCEN is of the opinion that they would continue to be used in the absence of the requirement in 31 CFR 1021.210(b)(2)(vi). However, FinCEN solicits comments on whether this is the case, and whether as a result the burden added by (vi) should be regarded as *de minimis*.

TABLE 2—DISTRIBUTION OF THE ESTIMATED TOTAL ANNUAL BURDEN HOURS PER REQUIREMENT—Continued

Required activities	Instances per year	Time per instance	Number of casinos	Total hourly burden
D. Ongoing compliance with the requirements in 31 CFR 1021.210(b)(2)(v) and (vi).	1 per casino	99 hours	1,277	126,423
Total hourly burden .....	.....	.....	.....	127,912

* 106.41 rounded to 106.

FinCEN is utilizing the same fully-loaded composite hourly wage rate of \$106.30 utilized in the 2024 NPRMs entitled Customer Identification Programs for Registered Investment

Advisers and Exempt Reporting Companies and Anti-Money Laundering and Countering the Financing of Terrorism Programs, as well as in recent 60-Day Notices to renew OMB control

numbers corresponding to specific BSA regulations.²³ The total estimated cost of the annual PRA burden is \$13,597,045.60, as reflected in table 3 below:

TABLE 3—ESTIMATED TOTAL COST OF ANNUAL PRA BURDEN

Required activities	Burden hours	Wage rate	Total cost
A. Maintaining and updating the written AML program	1,277	\$106.30	\$135,745.10
B. Storing the written AML program	106	106.30	11,267.80
C. Producing the AML program upon request	106	106.30	11,267.80
D. Ongoing compliance with the requirements in 31 CFR 1021.210(b)(2)(v) and (vi)	126,423	106.30	13,438,764.90
Total cost .....	.....	.....	13,597,045.60

Estimated Number of Respondents: 1,277 casinos, as set out in table 1.

Estimated Total Annual Recordkeeping Burden: The estimated annual PRA burden is approximately 127,912 hours, as set out in table 2.

Estimated Total Annual Recordkeeping Cost: The estimated total annual PRA cost is approximately \$13,597,045.60, as set out in table 3.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years.²⁴

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (i) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (ii) the accuracy of the agency's estimate of the burden of the collection of information; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; (iv)

ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (v) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Andrea M. Gacki,
Director, Financial Crimes Enforcement Network.
[FR Doc. 2024–18034 Filed 8–12–24; 8:45 am]
BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Regulations Requiring Additional Records To Be Made and Retained by Dealers in Foreign Exchange and Additional Records To Be Made and Retained by Brokers or Dealers in Securities

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

2024); FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Customer Identification Program Regulatory Requirements for Certain Financial Institutions*, 89 FR 51940 (June 20, 2024); FinCEN, *Agency Information Collection*

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comments on the proposed renewal, without change, of existing information collection requirements found in Bank Secrecy Act regulations that require dealers in foreign exchange and broker-dealers in securities to retain originals or copies of specified account or transaction records, and that require dealers in foreign exchange to secure and maintain records of the taxpayer identification number of persons for whom a transaction account is opened or a line of credit is extended. This request for comments is made pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments are welcome and must be received on or before October 15, 2024.

ADDRESSES: Comments may be submitted by any of the following methods:

- *Federal E-rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments. Refer to Docket Number FINCEN–2024–0014 and Office of Management and

²³ See, e.g., FinCEN and SEC, *NPRM Customer Identification Programs for Registered Investment Advisers and Exempt Reporting Advisers*, 89 FR 44571 (May 21, 2024); FinCEN, *NPRM Anti-Money Laundering and Countering the Financing of Terrorism Programs NPRM*, 89 FR 55428 (July 3,

Activities; Proposed Renewal; Comment Request; Renewal Without Change of Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions and for Private Banking Accounts, 89 FR 49273, (June 11, 2024).
²⁴ See 31 CFR 1010.430.

Budget (OMB) control numbers 1506–0052 and 1506–0053.

• *Mail:* Policy Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Refer to Docket Number FINCEN–2024–0014 and OMB control numbers 1506–0052 and 1506–0053.

Please submit comments by one method only. Comments will be reviewed consistent with the Paperwork Reduction Act of 1995 and applicable OMB regulations and guidance. All comments submitted in response to this notice will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT:

FinCEN's Regulatory Support Section at 1–800–767–2825 or electronically at frc@fincen.gov.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Provisions

The legislative framework generally referred to as the Bank Secrecy Act (BSA) consists of the Currency and Foreign Transactions Reporting Act of 1970, as amended by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act)¹ and other legislation, including the Anti-Money Laundering Act of 2020 (AML Act).² The BSA is codified at 12 U.S.C. 1829b, 1951–1960 and 31 U.S.C. 5311–5314, 5316–5336, including notes thereto, with implementing regulations at 31 CFR chapter X.

The BSA authorizes the Secretary of the Treasury (Secretary) to, *inter alia*, require financial institutions to keep records and file reports that are determined to have a high degree of usefulness in criminal, tax, or regulatory matters, risk assessments or proceedings, or in the conduct of intelligence or counter-intelligence activities to protect against terrorism, and to implement anti-money laundering/countering the financing of terrorism (AML/CFT) programs and compliance procedures.³ The authority of the Secretary to administer the BSA has been delegated to the Director of FinCEN.⁴

¹ USA PATRIOT Act, Public Law 107–56, 115 Stat. 272 (2001).

² The AML Act was enacted as Division F, sections 6001–6511 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Public Law 116–283, 134 Stat. 3388.

³ See 31 U.S.C. 5311.

⁴ Treasury Order 180–01 (Jan. 14, 2020); see also 31 U.S.C. 310(b)(2)(I) (providing that FinCEN Director “[a]dminister the requirements of

A. 31 CFR 1022.410—Additional Records To Be Made and Retained by Dealers in Foreign Exchange

Pursuant to 31 CFR 1022.410(a), a dealer in foreign exchange must secure and maintain a record of the taxpayer identification number of certain persons for whom a transaction account is opened or a line of credit is extended. The taxpayer identification number must be obtained and recorded within 30 days of the date the account is opened or credit line extended, or longer if the person opening the account or seeking the line of credit needs to apply for a taxpayer identification or social security number. For non-resident aliens, a dealer in foreign exchange is required to record the person's passport number or a description of some other government document used to verify his or her identity. A dealer in foreign exchange will not be treated as violating 31 CFR 1022.410(a) if it has made a reasonable effort to obtain a taxpayer identification number, maintains a list containing the names, addresses, and account or credit line numbers of those persons from whom it has not secured a taxpayer identification number, and provides these names, addresses, and account or credit line numbers to the Secretary upon request. Furthermore, a dealer in foreign exchange need not secure a taxpayer identification number in instances involving accounts for public funds opened by agencies or instrumentalities of federal, state, local, or foreign government, accounts for ambassadors, career diplomatic or consular officers, military attaches, accredited representatives to international organizations and certain other aliens, and accounts for unincorporated subordinate units of a tax-exempt central organization that are covered by a group exemption letter.

Pursuant to 31 CFR 1022.410(b), a dealer in foreign exchange must also retain the original or a copy of nine types of documents: (1) statements of accounts from banks, including documents representing the entries reflected on such statements; (2) daily work records, including documents needed to identify and reconstruct currency transactions with customers and foreign banks; (3) a record of each exchange of currency involving transactions in excess of \$1,000, including the customer's name and address (and passport or taxpayer identification number unless received by mail or common carrier), the date

subchapter II of chapter 53 of this title, chapter 2 of title I of Public Law 91–508, and section 21 of the Federal Deposit Insurance Act, to the extent delegated such authority by the Secretary.”)

and amount of the transaction, and the currency name, country, and total amount of each foreign currency; (4) signature cards or other documents evidencing signature authority over each deposit or security account, containing specified items of information about the customer (including a record of the actual owner of the account if customer accounts are maintained in a code name); (5) each item, including checks, drafts, and transfers of credit, of more than \$10,000 remitted or transferred to a person, account, or place outside the United States; (6) a record of each receipt of currency, other monetary instruments, investment securities and checks, and of each transfer of funds or credit, or more than \$10,000 received on any one occasion directly and not through a domestic financial institution, from any person, account, or place outside the United States; (7) records prepared or received by the dealer in foreign exchange in the ordinary course of business that would be needed to reconstruct an account and trace a check in excess of \$100 deposited in such an account through its internal recordkeeping system to its depository institution, or to supply a description of such a deposited check; (8) a record of the name, address, and taxpayer identification number of any person presenting a certificate of deposit for payment, as well as a description of the instrument and the date of the transaction; and (9) a system of books and records that enables the dealer in foreign exchange to prepare an accurate balance sheet and income statement. To the extent that these records include originals or copies of checks, drafts, monetary instruments, investment securities, or other similar instruments, copies of front and back of such instruments must generally be retained.⁵ If no record is made in the ordinary course of business of any transaction with respect to which records are required to be retained, then such a record shall be prepared in writing.⁶ Records must be maintained for five years.⁷

B. 31 CFR 1023.410—Additional Records To Be Made and Retained by Brokers or Dealers in Securities

Pursuant 31 CFR 1023.410(a), a broker or dealer in securities is required to secure and maintain a record of certain identifying information for persons who have opened brokerage accounts during the period from June 30, 1972 to

⁵ 31 CFR 1010.430(a).

⁶ 31 CFR 1010.430(b).

⁷ See 31 CFR 1010.430.

October 1, 2003. The customer identification program (CIP) requirement for brokers or dealers in securities has effectively superseded that requirement, and CIP requirements are not considered in connection with this OMB control number renewal.⁸

Pursuant to 31 CFR 1023.410(b), a broker or dealer in securities must retain an original or copy of: (1) each document granting signature or trading authority over each customer's account; (2) a record of each remittance or transfer of funds, or of currency, checks, other monetary instruments, investment securities, or credit, of more than \$10,000 to a person, account, or place outside the United States; (3) a record of each receipt of currency, other monetary instruments, investment securities, or checks, and of each transfer of funds or credit, of more than \$10,000 on any one occasion, not through a domestic financial institution, from any person, account, or place outside the United States; and (4) each record described in paragraphs (1), (2), (3), (5), (6), (7), (8), and (9) of 17 CFR 240.17a-3(a). To the extent that these records include originals or copies of checks, drafts, monetary instruments, investment

securities, or other similar instruments, copies of front and back of such instruments must generally be retained.⁹ If no record is made in the ordinary course of business of any transaction with respect to which records are required to be retained, then such a record shall be prepared in writing.¹⁰ Records must be maintained for five years.¹¹

II. Paperwork Reduction Act of 1995 (PRA)¹²

Title: Additional records to be made and retained by dealers in foreign exchange and additional records to be made and retained by brokers or dealers in securities (31 CFR 1022.410 and 31 CFR 1023.410).

OMB Control Numbers: 1506-0052 and 1506-0053.

Form Number: Not applicable.

Abstract: FinCEN is issuing this notice to renew the OMB control numbers for record-keeping requirements for dealers in foreign exchange and brokers or dealers in securities.

Affected Public: Businesses or other for-profit institutions, and non-profit institutions.

Type of Review: Renewal without change of a currently approved information collection.

Frequency: As required.

Estimated Number of Respondents: 7,101 financial institutions.¹³

Estimated Recordkeeping Burden:

In Part 1 of this notice, FinCEN describes the distribution of the estimated number of financial institutions, by type, affected by each of the regulatory requirements. In Part 2, FinCEN describes the primary characteristics of the record-keeping requirements for dealers in foreign exchange and brokers or dealers in securities. In addition, in Part 2, FinCEN proposes for review and comment a renewal of the calculation of the annual PRA burden that includes a scope and methodology similar to that used in the 2021 notice to renew the OMB control numbers associated with these information collections.¹⁴

Part 1. Distribution of the Financial Institutions Covered by This Notice

The distribution of financial institutions, by type, covered by this notice is reflected in table 1 below:

TABLE 1. DISTRIBUTION OF FINANCIAL INSTITUTIONS COVERED BY THIS NOTICE, BY TYPE OF FINANCIAL INSTITUTION

Type of financial institution	Number of financial institutions
Dealers in foreign exchange	^a 3,623
Brokers or dealers in securities	^b 3,478
Total number of financial institutions	7,101

^a This number is derived from data as self-reported by MSBs identified as active at year-end 2023 in FinCEN's publicly available MSB registration database (available at <https://www.fincen.gov/msb-state-selector>, downloaded Feb. 28, 2024).

^b This estimate is based on a December 2023 file downloaded from data maintained by the U.S. Securities and Exchange Commission's (SEC), *Company Information About Active Broker-Dealers* available at <https://www.sec.gov/help/foiadocsbdfioa> (accessed on Feb. 28, 2024).

In connection with a variety of initiatives FinCEN is undertaking to implement the AML Act, FinCEN intends to conduct, in the future, additional assessments of the PRA burden associated with BSA requirements.

Part 2. Annual PRA Burden and Cost

OMB Control Number 1506-0052

31 CFR 1022.410(a)

Each dealer in foreign exchange must secure and maintain a record of the

taxpayer identification number of certain persons for whom a transaction account is opened or a line of credit is extended. The taxpayer identification number must be obtained and recorded within 30 days of the date the account is opened or credit line extended, or longer if the person opening the account or seeking the line of credit needs to apply for a taxpayer identification or social security number. A dealer in foreign exchange will not be treated as violating the requirement if it has made a reasonable effort to obtain a taxpayer

identification number, maintains a list containing the names, addresses, and account or credit line numbers of those persons from whom it has not secured a taxpayer identification number, and provides these names, addresses, and account or credit line numbers to the Secretary upon request.

31 CFR 1022.410(b)

Each dealer in foreign exchange must retain the original or a copy of nine types of documents, as described in

⁸ 31 CFR 1023.220. The rule has a compliance date of October 1, 2003. The burden associated with the customer identification program requirement is calculated under OMB control number 1506-0034. For the supersession of this recordkeeping requirement, see FinCEN, *Customer Identification Program for Broker-Dealers*, 68 FR 25113, 25124 (May 9, 2003).

⁹ 31 CFR 1010.430(a).

¹⁰ 31 CFR 1010.430(b).

¹¹ See 31 CFR 1010.430.

¹² Public Law 104-13, 109 Stat. 163 (codified at 44 U.S.C. 3506(c)(2)(A)).

¹³ Table 1 below sets forth a distribution of the types of financial institutions covered by this notice.

¹⁴ See FinCEN, *Agency Information Collections Activities; Proposed Renewal; Comment Request: Renewal Without Change of Regulations Requiring Additional Records To Be Made and Retained by Dealers in Foreign Exchange and Additional Records To Be Made and Retained by Brokers or Dealers in Securities*, 86 FR 7778 (Feb. 1, 2021).

Section I—Statutory and Regulatory Provisions above.

Due to the challenges of obtaining the total number of such records required to be maintained by dealers in foreign exchange under 31 CFR 1022.410, in its most recent control number renewal, FinCEN estimated that the annual recordkeeping burden per dealer in foreign exchange for these requirements was 16 hours.¹⁵ FinCEN continues to estimate that the annual hourly burden of complying with 31 CFR 1022.410 is 16 hours per dealer in foreign exchange.

Multiplying 3,623 dealers in foreign exchange¹⁶ by 16 hours results in a total annual hourly burden estimate of 57,968 hours.

OMB Control Number 1506–0053

31 CFR 1023.410(a)

As noted above, brokers or dealers in securities have no recordkeeping responsibilities under this provision; the obligation of brokers or dealers in securities to maintain customer identification programs pursuant to 31 CFR 1023.220 has effectively replaced these responsibilities.

31 CFR 1023.410(b)

Each broker or dealer in securities must retain an original or copy of certain types of documents, as described in Section I—Statutory and Regulatory Provisions above.

Due to the challenges of obtaining the total number of such records required to be maintained by brokers or dealers in

securities, in its most recent control number renewal, FinCEN estimated the annual recordkeeping burden per broker or dealer in securities for these requirements to be 100 hours.¹⁷ FinCEN continues to estimate that the annual hourly burden of complying with 31 CFR 1023.410 is 100 hours per broker or dealer in securities.

Multiplying 3,478 brokers or dealers in securities¹⁸ by 100 hours results in a total annual hourly burden estimate of 347,800 hours.

Total Annual PRA Hourly Burden for OMB Control Numbers 1506–0052 and 1506–0053

FinCEN's estimate of the annual PRA burden, therefore, is 405,768 hours, as detailed in table 2 below:

TABLE 2—DISTRIBUTION OF ESTIMATED TOTAL ANNUAL BURDEN HOURS PER REQUIREMENT BY TYPE OF AFFECTED FINANCIAL INSTITUTION

Regulatory requirement	OMB control No.	Affected financial institution type	Number of financial institutions	Annual burden estimate per financial institution (hours)	Total annual burden hours per regulatory requirement
31 CFR 1022.410	1506–0052	Dealers in foreign exchange	3,623	16	57,968
31 CFR 1023.410	1506–0053	Brokers or dealers in securities	3,478	100	347,800
Total annual hour burden hours.	.....	.....	.....	.....	405,768

FinCEN is utilizing the same fully loaded composite hourly wage rate of \$106.30 utilized in the 2024 notices of proposed rulemaking (NPRMs) entitled Customer Identification Programs for Registered Investment Advisers and

Exempt Reporting Companies and Anti-Money Laundering and Countering the Financing of Terrorism Programs, as well as in recent 60-Day Notices to renew OMB control numbers

corresponding to specific BSA regulations.¹⁹

The total estimated cost of the annual PRA burden is \$43,133,138.40, as reflected in table 3 below:

TABLE 3—ESTIMATED TOTAL COST OF ANNUAL PRA BURDEN

OMB control No./regulation	Burden hours	Wage rate	Total cost
1506–0052 (31 CFR 1022.410)	57,968	\$106.30	\$6,161,998.40
1506–0053 (31 CFR 1023.410)	347,800	106.30	36,971,140.00
Total cost .....	.....	.....	43,133,138.40

Estimated Number of Respondents: 7,101 financial institutions, as set out in table 1.

Estimated Total Annual Recordkeeping Burden: The estimated annual PRA burden is approximately 405,768 hours, as set out in table 2.

Estimated Total Annual Recordkeeping Cost: The estimated total

annual PRA cost is approximately \$43,133,138.40, as set out in table 3.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Records required to be retained under the BSA must be retained for five years.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on the following: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the

¹⁵ See *supra* note 14.

¹⁶ See *supra* table 1.

¹⁷ See *supra* note 14.

¹⁸ See *supra* table 1.

¹⁹ See, e.g., FinCEN and SEC, *NPRM Customer Identification Programs for Registered Investment Advisers and Exempt Reporting Advisers*, 89 FR

44571 (May 21, 2024); FinCEN, *NPRM Anti-Money Laundering and Countering the Financing of Terrorism Programs NPRM*, 89 FR 55428 (July 3, 2024); FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of the Customer Identification Program Regulatory Requirements for*

Certain Financial Institutions, 89 FR 51940 (June 20, 2024); FinCEN, *Agency Information Collection Activities; Proposed Renewal; Comment Request; Renewal Without Change of Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions and for Private Banking Accounts*, 89 FR 49273, (June 11, 2024).

information shall have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (5) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Andrea M. Gacki,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2024-18036 Filed 8-12-24; 8:45 am]

BILLING CODE 4810-02-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8904

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 8904, Credit for Oil and Gas Production From Marginal Wells.

DATES: Written comments should be received on or before October 15, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andrés García, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Please include, "OMB Number: 1545-2278, Credit for Oil and Gas Production From Marginal Wells. (Form 8904), Public Comment Request Notice" in the Subject line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure and instructions should be directed to LaNita Van Dyke, at (202) 317-3009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at LaNita.VanDyke@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Credit for Oil and Gas Production From Marginal Wells.

OMB Number: 1545-2278.

Form Number: 8904.

Abstract: Public Law 108-357, title III, subtitle C, section 341(a) has caused us to develop a credit for oil and gas production from marginal wells, which is reflected on Form 8904 and its instructions. Tax year 2017 was the first year Form 8904 and its instructions were released.

Current Actions: There are no changes being made to Form 8904 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, Individuals or households, not-for-profit institutions, farms, and State, local or Tribal governments.

Estimated Number of Responses: 20,000.

Estimated Time per Respondent: 2 hrs., 58 mins.

Estimated Total Annual Burden Hours: 59,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 7, 2024.

Andres Garcia Leon,

Supervisory Tax Analyst.

[FR Doc. 2024-17940 Filed 8-12-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request on Reduction of Tax Attributes Due to Discharge of Indebtedness

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning information collection requirements related to requests on reduction of tax attributes due to discharge of indebtedness.

DATES: Written comments should be received on or before October 15, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include OMB control number 1545-0046 or Request on Reduction of Tax Attributes Due to Discharge of Indebtedness, in the subject line.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Kerry Dennis at (202) 317-5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at Kerry.L.Dennis@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Request on Reduction of Tax Attributes Due to Discharge of Indebtedness.

OMB Number: 1545-0046.

Form Number: 982.

Abstract: Reduction of Tax Attributes Due to Discharge of Indebtedness. Internal Revenue Code (IRC) section 108 allows taxpayers to exclude from gross income amounts attributable to discharge of indebtedness in title 11 cases, insolvency, or a qualified farm indebtedness. Section 1081(b) allows corporations to exclude from gross

income amounts attributable to certain transfers of property. The data is used to verify adjustments to basis of property and reduction of tax attributes.

Current Actions: There is no change to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, businesses or other for-profit, small businesses, or organizations.

Estimated Number of Respondents: 667.

Estimated Time per Response: 11 hours, 23 min.

Estimated Total Annual Burden Hours: 7,491 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 7, 2024.

Kerry L. Dennis,
Tax Analyst.

[FR Doc. 2024-17984 Filed 8-12-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request on Consumer Cooperative Exemption Application

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning information collection requirements related to consumer cooperative exemption applications.

DATES: Written comments should be received on or before October 15, 2024 to be assured of consideration

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Include OMB control number 1545-1941 or Consumer Cooperative Exemption Application, in the subject line.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form should be directed to Kerry Dennis at (202) 317-5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at Kerry.L.Dennis@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Consumer Cooperative Exemption Application.

OMB Number: 1545-1941.

Form Number: 3491.

Abstract: A cooperative uses Form 3491 to apply for exemption from filing Form 1099-PATR, Taxable Distributions received from Cooperatives. Form 1099-PATR is used to report patronage distributions of \$10 or more to a recipient during the calendar year.

Current Actions: There is no change to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit, individuals or households, and farms.

Estimated Number of Respondents: 200.

Estimated Time per Response: 44 min.

Estimated Total Annual Burden Hours: 148 hours.

The following paragraph applies to all the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 7, 2024.

Kerry L. Dennis,
Tax Analyst.

[FR Doc. 2024-17985 Filed 8-12-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0635]

Agency Information Collection Activity: Suspension of Monthly Check

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to

publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before October 15, 2024.

ADDRESSES: Comments must be submitted through www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: VA PRA information: Maribel Aponte, 202–461–8900, vacopaperworkreduact@va.gov

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA’s functions, including whether the information will have practical utility; (2) the accuracy of VBA’s estimate of the

burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Suspension of Monthly Check (VA Form 29–0759).

OMB Control Number: 2900–0635.
https://www.reginfo.gov/public/do/PRASearch (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Extension of a currently approved collection.

Abstract: The form is used by the Department of Veterans Affairs to advise the beneficiary that his/her monthly check has been suspended. The information requested is authorized by law, 38 U.S.C. 1917.

Affected Public: Individuals and households.

Estimated Annual Burden: 83 hours.

Estimated Average Burden per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 500.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,
VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.
[FR Doc. 2024–17988 Filed 8–12–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Homeless Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that the Advisory Committee on Homeless Veterans will meet on September 17–18, 2024. The September 17–18, 2024, meeting sessions will be hybrid (held in-person at the Bayaud Enterprises 1550 Dover Street Lakewood, CO 80215; and virtually via Zoom conferencing platform—Mountain Standard Time). The September 2024 meeting sessions will begin and end as follows:

Date	Mountain standard time	Open session
September 17, 2024	9:00 a.m.–3:30 p.m. Mountain Standard Time (MST)	Yes.
September 18, 2024	9:00 a.m.–11:00 a.m. (MST)	Yes.
September 18, 2024	12:00 p.m.–4:00 p.m. (MST)	No.

The meeting sessions are open to the public, except during the time the Committee is conducting tours of VA facilities. Tours of VA facilities are closed, to protect Veterans’ privacy and personal information, in accordance with 5 U.S.C 552b(c)(6).

The purpose of the Committee is to provide the Secretary of Veterans Affairs with an ongoing assessment of the effectiveness of the policies, organizational structures, and services of VA in assisting Veterans at risk of and experiencing homelessness. The Committee shall assemble and review information related to the needs of homeless Veterans and provide advice on the most appropriate means of assisting this Veteran population.

On September 17, 2024, the meeting will be open to the public and the agenda will include briefings from VA and other Federal, state, and local agencies regarding services for homeless Veterans. On September 18, 2024 (9:00 a.m.–11:00 a.m. Mountain Standard Time), the meeting will be open to the public and the agenda will include the

Committee’s proposed recommendations for the next annual report. On September 18, 2024, (12:00 p.m.–4:00 p.m. Mountain Standard Time), Committee members will tour Veterans service facilities that support homeless Veterans. Tours of Veteran service facilities are closed to protect Veterans’ privacy and personal information in accordance with 5 U.S.C. 552b(c)(6).

Time will be allocated at the September 17, 2024, meeting for receiving oral presentations from the public (during the 30 minutes public comment segment). By August 30, 2024, interested parties that would like to provide oral or written presentations on issues affecting homeless Veterans should send such presentations to Anthony Love, Designated Federal Officer, Veterans Health Administration Homeless Programs Office (11HPO), U.S. Department of Veterans Affairs, 810 Vermont Avenue NW (11HPO), Washington, DC 20420, at achv@va.gov, for distribution to the Committee.

Additionally, members of the public who wish to attend the September 17–18, 2024, meetings virtually, please use the Zoom link below to sign in. For those attending in person, a photo I.D. may be required at the Guard’s Desk as a part of the entrance screening process. Due to an increase in security protocols, you should arrive 30 minutes before the meeting begins. An escort for meeting attendees will be provided until 8:45 a.m. Mountain Standard Time. Attendees or interested parties who require reasonable accommodations should send a message to Mr. Anthony Love at achv@va.gov. The meeting link and call-in numbers are noted below:

September 17, 2024 Meeting (9:00 a.m.–3:00 p.m. Mountain Standard Time)

September 18, 2024 Meeting (9:00 a.m.–11:00 a.m. Mountain Standard Time)

Zoom Meeting: <https://us06web.zoom.us/j/82330308555?pwd=F5wpsImYoULLPri1YHPE61nAdTcL6.1>
Meeting ID: 823 3030 8555
Passcode: 767879

Phone: +1 253 215 8782 US (Tacoma)
Meeting ID: 823 3030 8555 +1 346 248 7799 US (Houston)
Passcode: 767879 +1 360 209 5623 US
+1 312 626 6799 US (Chicago) +1 386 347 5053 US
+1 646 558 8656 US (New York) +1 507 473 4847 US
+1 646 931 3860 US +1 564 217 2000 US
+1 301 715 8592 US (Washington DC) +1 669 444 9171 US
+1 305 224 1968 US +1 689 278 1000 US
+1 309 205 3325 US +1 719 359 4580 US
+1 253 205 0468 US +1 720 707 2699 US (Denver)

Contact achv@va.gov if you need assistance.

Dated: August 7, 2024.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–17959 Filed 8–12–24; 8:45 am]

BILLING CODE 8320–01–P

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