
# FEDERAL REGISTER

Vol. 87 Friday

No. 155 August 12, 2022

Pages 49767–49974

OFFICE OF THE FEDERAL REGISTER

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# Rules and Regulations

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

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

## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Parts 338 and 343

**RIN 3064–AF84**

### Fair Housing Rule, Consumer Protection in Sales of Insurance Rule; Correction

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Correcting amendments.

**SUMMARY:** The Federal Deposit Insurance Corporation (FDIC) published a document in the **Federal Register** of August 8, 2022, making technical corrections to two regulations to reflect a reorganization and change in the name of its former Consumer Response Center to the National Center for Consumer and Depositor Assistance. The document incorrectly listed the name of the National Center for Consumer and Depositor Assistance. This document corrects the regulations.

**DATES:** Effective August 12, 2022.

**FOR FURTHER INFORMATION CONTACT:** Alys V. Brown, Attorney, Legal Division, 202–898–3565, *alybrown@fdic.gov;* Thaddeus J. King, Policy Analyst, Division of Depositor and Consumer Protection, 202–898–3541, *thking@fdic.gov*.

**SUPPLEMENTARY INFORMATION:** This document augments the corrections to parts 338 (Fair Housing) and 343 (Consumer Protection in Sales of Insurance) that the FDIC published in the **Federal Register** on August 8, 2022 (87 FR 49079), and corrects the name of the National Center for Consumer and Depositor Assistance.

### List of Subjects

*12 CFR Part 338*

Aged, Banks, banking, Civil rights, Credit, Fair housing, Individuals with disabilities, Marital status discrimination, Mortgages, Religious discrimination, Reporting and recordkeeping requirements, Savings associations, Sex discrimination, Signs and symbols.

*12 CFR Part 343*

Banks, banking, Consumer protection, Insurance, Savings associations.

### Authority and Issuance

For the reasons stated in the preamble, the FDIC corrects 12 CFR parts 338 and 343 by making the following correcting amendments:

## PART 338—FAIR HOUSING

■ 1. The authority citation for part 338 continues to read as follows:

**Authority:** 12 U.S.C. 1817, 1818, 1819, 1820(b), 2801 *et seq.;* 15 U.S.C. 1691 *et seq.;* 42 U.S.C. 3605, 3608; 12 CFR parts 1002, 1003; 24 CFR part 110.

**§ 338.4 [Amended]**

■ 2. Amend § 338.4 by removing the phrase ''National Center for Consumer and Deposit Assistance'' wherever it appears in paragraph (b) and adding ''National Center for Consumer and Depositor Assistance'' in its place.

## PART 343—CONSUMER PROTECTION IN SALES OF INSURANCE

■ 3. The authority citation for part 343 continues to read as follows:

**Authority:** 12 U.S.C. 1819 (Seventh and Tenth); 12 U.S.C. 1831x.

### Appendix A to Part 343 [Amended]

■ 4. Amend appendix A to part 343 by removing the phrase ''National Center for Consumer and Deposit Assistance'' wherever it appears and adding ''National Center for Consumer and Depositor Assistance'' in its place.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on August 9, 2022.

**James P. Sheesley,**

*Assistant Executive Secretary.*

[FR Doc. 2022–17370 Filed 8–11–22; 8:45 am]

**BILLING CODE 6714–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2022–0025; Airspace Docket No. 21–ACE–2]**

**RIN 2120–AA66**

### Amendment of Multiple Air Traffic Service (ATS) Routes and Establishment of Area Navigation (RNAV) Routes in the Vicinity of Liberal, KS

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

**ACTION:** Final rule; correction.

**SUMMARY:** This action corrects a final rule published by the FAA in the **Federal Register** on June 30, 2022, that amends Jet Routes J–19, J–20, J–52, J–98, J–134, and J–231, RNAV route Q–176, and VHF Omnidirectional Range (VOR) Federal airways V–210, V–234, V–350, and V–507; and establishes RNAV routes T–418 and T–431. The final rule identified the KENTO, NM, route point as a waypoint (WP), in error. This action makes editorial corrections to all references of the KENTO, NM, waypoint (WP) to change them to the KENTO, NM, Fix to match the FAA's aeronautical database information.

**DATES:** Effective date 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

**SUPPLEMENTARY INFORMATION:**

**History**

The FAA published a final rule (87 FR 38916; June 30, 2022), amending Jet Routes J–19, J–20, J–52, J–98, J–134, and J–231, RNAV route Q–176, and VHF Omnidirectional Range (VOR) Federal airways V–210, V–234, V–350, and V–507; and establishing RNAV routes T–418 and T–431 due to the planned decommissioning of the VOR portion of the Liberal, KS (LBL), VOR/Tactical Air Navigation (VORTAC) navigational aid (NAVAID). Subsequent to publication, the FAA determined that the KENTO, NM, route point was inadvertently identified as a WP, in error. This rule corrects that error by changing all references to the KENTO, NM, WP to the KENTO, NM, Fix. This is an editorial change only to match the FAA's aeronautical database information and does not alter the alignment of the affected Air Traffic Service (ATS) routes, Q–176 and T–431.

Jet Routes are published in paragraph 2004, RNAV Q-routes are published in paragraph 2006, VOR Federal airways are published in paragraph 6010(a), and United States RNAV T-routes are published in paragraph 6011 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The ATS routes listed in this document will be published subsequently in FAA Order JO 7400.11.

**Correction to Final Rule**

Accordingly, pursuant to the authority delegated to me, all references to the KENTO, NM, WP reflected in Docket No. FAA–2022–0025, as published in the **Federal Register** of June 30, 2022 (87 FR 38916), FR Doc. 2022–13844, are corrected as follows:

1. In FR Doc. 2022–13844, appearing on page 38917, in the first column, at line 19, correct ''KENTO, NM, WP'' to read ''KENTO, NM, Fix.''

2. In FR Doc. 2022–13844, appearing on page 38918, in the first column, at line 10, correct ''KENTO, NM, WP'' to read ''KENTO, NM, Fix.''

3. In FR Doc. 2022–13844, appearing on page 38918, in the third column, at lines 53, correct ''KENTO, NM, WP'' to read ''KENTO, NM, FIX.''

4. In FR Doc. 2022–13844, appearing on page 38919, in the third column, at line 22, correct ''KENTO, NM, WP'' to read ''KENTO, NM, FIX.''

Issued in Washington, DC, on August 3, 2022.

**Scott M. Rosenbloom,**

*Manager, Airspace Rules and Regulations.*

[FR Doc. 2022–17030 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2022–0253; Airspace Docket No. 21–ANM–9]**

**RIN 2120–AA66**

## Modification of Class E Airspace; Coeur D'Alene—Pappy Boyington Field, ID; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** The FAA is correcting a final rule that appeared in the **Federal Register** on June 10, 2022. The rule modified the Class E surface airspace, and the Class E airspace extending upward from 700 feet above the surface at Coeur D'Alene—Pappy Boyington Field, ID. The final rule's Class E5 airspace legal description was missing verbiage. This action adds that missing verbiage to correct the Class E5 airspace legal description.

**DATES:** Effective 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11, Airspace Designations and Reporting Points, and publication of conforming amendments.

**FOR FURTHER INFORMATION CONTACT:** Nathan A. Chaffman, Federal Aviation Administration, Western Service Center, Operations Support Group, 2200 S 216th Street, Des Moines, WA 98198; telephone (206) 231–3460.

**SUPPLEMENTARY INFORMATION:**

**History**

The FAA published a final rule in the **Federal Register** (87 FR 35384; June 10, 2022) for Docket FAA–2022–0253, which modified the Class E surface airspace, and the Class E airspace extending upward from 700 feet above the surface at Coeur D'Alene—Pappy Boyington Field, ID. Subsequent to publication, the FAA identified that the Class E5 airspace legal description was incorrect. Class E5 airspace is that airspace which extends ''upward from 700 feet or more above the surface of the Earth.'' The first line of the E5 legal description is missing the phrase ''extending upward from 700 feet above the surface.'' This action corrects that error.

The Class E5 airspace designation is published in paragraph 6005 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in FAA Order JO 7400.11.

**Correction to Final Rule**

Accordingly, pursuant to the authority delegated to the FAA, ''Modification of Class E Airspace; Coeur D'Alene—Pappy Boyington Field, ID'', published in the **Federal Register** of June 10, 2022 (87 FR 35384), FR Doc. 2022–12479, is corrected as follows:

■ 1. On page 35385, in the third column, beginning on line 11, the legal description for ANM ID E5 Coeur D'Alene, ID is corrected to read:

That airspace extending upward from 700 feet above the surface within a 4.4-mile radius of the Coeur D'Alene—Pappy Boyington Field, and within 2.2 miles each side of the 193° bearing from the airport extending from the 4.4-mile radius to 9 miles south of the airport, and that airspace 4.4 miles each side of the 251° bearing from the Coeur D'Alene—Pappy Boyington Field extending from the 4.4-mile radius to 16 miles west of the airport and that airspace 1.8 miles west and 4 miles east of the 013° bearing from the Coeur D'Alene—Pappy Boyington Field extending from the 4.4-mile radius to 8.5 miles northeast from the airport.

**Joseph M. Bert,**

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

[FR Doc. 2022–16965 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2021–0859; Airspace Docket No. 19–AAL–57]**

**RIN 2120–AA66**

## Establishment of United States Area Navigation (RNAV) Route T–390; St. Paul Island, AK

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

**ACTION:** Final rule; correction.

**SUMMARY:** The FAA is correcting a final rule published in the **Federal Register** on July 11, 2022, that established RNAV route T–390 in the vicinity of St. Paul Island, AK. In the description of T–390, the final rule identified the ZEBUV, AK route point as a waypoint (WP), in error. This action makes an editorial corrections to all references of the ZEBUV, AK, WP to change them to the

ZEBUV, AK, Fix to match the FAA's aeronautical database information.

**DATES:** Effective date 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

**SUPPLEMENTARY INFORMATION:**

**History**

The FAA published a final rule in the **Federal Register** (87 FR 41052; July 11, 2022) for Docket No. FAA–2021–0859, establishing RNAV route T–390. Subsequent to publication, the FAA determined that the ZEBUV, AK, route point was inadvertently identified as a WP, in error. This rule corrects that error by changing references from the RAYMD, AK, WP to the RAYMD, AK, Fix. This is an editorial change only to match the FAA's aeronautical database information and does not alter the alignment of T–390.

United States RNAV routes are published in paragraph 6011 are published in paragraph 6011 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document will be published subsequently in FAA Order JO 7400.11.

**Correction to Final Rule**

Accordingly, pursuant to the authority delegated to me, reference to the ZEBUV, AK, WP, published in the **Federal Register** of July 11, 2022 (87 FR 41052), FR Doc. 2022–14494, is corrected as follows:

■ 1. On page 41054, in the first column, line 3, correct ''ZEBUV, AK WP'' to read ''ZEBUV, AK FIX.''

Issued in Washington, DC, on August 3, 2022.

**Scott M. Rosenbloom,**

*Manager, Airspace Rules and Regulations.*

[FR Doc. 2022–16947 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

**[Docket No. FAA–2022–0867; Airspace Docket No. 21–AAL–39]**

**RIN 2120–AA66**

## Establishment of United States Area Navigation (RNAV) Route T–435; Sand Point, AK

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

**ACTION:** Final rule; correction.

**SUMMARY:** The FAA is correcting a final rule that published in the **Federal Register** on June 28, 2022, that established RNAV route T–435 in the vicinity of Sandy Point, AK. In the description of T–435, the final rule identified the RAYMD, AK route point as a waypoint (WP), in error. This action makes editorial corrections to all references of the RAYMD, AK, WP to change them to the RAYMD, AK, Fix to match the FAA's aeronautical database information.

**DATES:** Effective date 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

**SUPPLEMENTARY INFORMATION:**

**History**

The FAA published a final rule in the **Federal Register** (87 FR 38265; June 28, 2022) for Docket No. FAA–2022–0867, which established RNAV route T–435. Subsequent to publication, the FAA determined that the RAYMD, AK, route point was inadvertently identified as a WP, in error. This rule corrects that error by changing all references from the RAYMD, AK, WP, to the RAYMD, AK, Fix. This is an editorial change only to match the FAA's aeronautical database information and does not alter the alignment of T–435.

United States RNAV routes are published in paragraph 6011 are published in paragraph 6011 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document will be published subsequently in FAA Order JO 7400.11.

**Correction to Final Rule**

Accordingly, pursuant to the authority delegated to me, reference to the RAYMD, AK, WP, published in the **Federal Register** of June 28, 2022 (87 FR 38265), FR Doc. 2022–13682, is corrected as follows:

■ 1. On page 38266, in the first column, at line 26, correct ''RAYMD, AK WP'' to read ''RAYMD, AK FIX.''

Issued in Washington, DC, on August 3, 2022.

**Scott M. Rosenbloom,**

*Manager, Airspace Rules and Regulations.*

[FR Doc. 2022–16948 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–13–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[MB Docket No. 22–240; DA 22–662; FR ID 97781]**

## Class D FM Station Exemptions

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document the Media Bureau (Bureau) of the Federal Communications Commission (Commission or FCC) adopts changes to its public inspection file rules to reinstate the text of an explanatory note that was inadvertently deleted from the Code of Federal Regulations. The note clarified that Class D FM stations, or stations whose programming is wholly ''Instructional,'' are exempt from the requirement to maintain issues and programs lists in their public inspection file. Reinstatement of this explanatory text will provide clarity to regulatees as to their public inspection file obligations.

**DATES:** Effective September 12, 2022.

**FOR FURTHER INFORMATION CONTACT:** Albert Shuldiner, Chief, Media Bureau, Audio Division, (202) 418–2721; Alexander Sanjenis, Assistant Division Chief, Media Bureau, Audio Division, (202) 418–2779.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Media Bureau's Order (Order), MB Docket No. 22–240; DA 22–662, adopted and released on June 22, 2022. The full text of this document will be available via the FCC's Electronic Comment Filing System (ECFS), *https://www.fcc.gov/cgb/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

**Paperwork Reduction Act of 1995 Analysis**

This document does not contain any new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, see 44 U.S.C. 3507.

Therefore, it does not contain any new or modified information collection burdens for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4).

**Congressional Review Act**

The Bureau will send a copy of this Order to Congress and the Government Accountability Office (GAO) pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

**Synopsis**

1. *Introduction.* In this Order, the Bureau re-codifies clarifying language from a Note that was inadvertently eliminated from § 73.3527 of the Commission's rules (Rules) relating to the online public inspection file obligations of applicants, permittees, or licensees whose existing or prospective facilities are Class D FM stations or whose programming is wholly ''Instructional'' (referred to collectively herein as ''Class D FM stations''). We re-codify the language as text in our Rules to conform to the publishing conventions of the National Archives and Records Administration's Office of the Federal Register. This amendment to the Rules does not change any regulatory obligations. Instead, § 73.3527 will more accurately state the entities to which it applies, eliminating potential confusion among Class D FM stations.

2. Section 73.3527 outlines the online public inspection file obligations of noncommercial educational stations. Section 73.3527(e)(8) states that ''nonexempt noncommercial education broadcast stations'' are required to maintain in their online public inspection files a quarterly ''list of programs that have provided the station's most significant treatment of community issues during the preceding three month period.'' However, the Rule does not define ''nonexempt'' or provide any explanation of which stations are exempt from this requirement.

3. Prior to the adoption of § 73.3527, the Commission had clarified that Class D FM stations are exempt from the requirement that stations maintain in their public files a list of programs addressing problems in the station's community, FCC 76–234, 41 FR 12424–01 (Mar. 25, 1976) (1976 R&O). Although the Commission required that NCE stations place in their public files such lists, the Commission codified in a Note to its Rules that ''[e]xempt licensees include those offering wholly instructional programming and those operating under Class D, 10-watt authorizations.'' In 1984, the Commission revisited the requirement for stations to maintain issues/programs lists, FCC 84–294, 49 FR 33658–01 (Aug. 24, 1984) (1984 R&O). The 1984 R&O again noted that Class D FM stations are exempt from the issues/programs lists requirements due to the limited nature of the service they provide. Although the Commission's order highlighted the exemption for Class D FM stations, the actual text of the new § 73.3527 inadvertently omitted that exemption.

4. Subsequently, the Mass Media Bureau issued an order in 1985 noting that the exemption was inadvertently omitted from the text of § 73.3527 but that Class D FM stations remained exempt from the requirement to maintain program lists (1985 Bureau Order). Accordingly, a Note 2 to § 73.3527 was added: ''For purposes of paragraph (a)(7) of this section, exempt applicants, permittees or licensees include those whose existing or prospective facilities are Class D FM stations or whose programming is wholly 'Instructional' '' (Class D Note). This revised version of § 73.3527 was published in the **Federal Register** on March 4, 1985, 50 FR 8628–01 (Mar. 4, 1985). and appears in the Code of Federal Regulations (CFR) editions for 1985, 1986 and 1987.

5. In 1988, the Commission again adopted an order, FCC 88–52, 53 FR 15224 (Apr. 28, 1988), revising the retention of issues/programs lists in § 73.3527(a)(7) (1988 Order). The 1988 Order revised the rule to make it consistent with a change made to the companion rule for commercial stations. The 1987 NPRM that preceded that order did not propose any change to the Class D exemption; nor did the 1988 Order discuss any such change. However, the Class D Note did not appear in the 1988 edition of the CFR, nor in any subsequent edition.

6. Compounding the confusion created by the apparent inadvertent deletion of the Class D Note following the 1988 Order, the Bureau issued a Forfeiture Order in 2009, DA 09–590, (UMW) where it specifically rejected an argument that Class D FM stations are exempt from the issues/programs list requirement of § 73.3527. Although UMW correctly states that the Commission did indeed make Class D FM stations exempt in the 1976 R&O, it incorrectly held that the Commission did not intend to continue that exemption in effect when it adopted § 73.3527. UMW did not address the 1985 Bureau Order, which clarified that Class D FM stations are exempt from § 73.3527, nor did it explain what stations are considered exempt from the issues/programs list requirement.

7. *Discussion.* We find that the omission of the Class D Note from the 1988 Order and subsequent editions of the CFR was an inadvertent one, unrelated to the proposal addressed in that order, and re-codify the exemption that relieves Class D FM stations from the requirement to maintain issues/programs lists in their online public inspection file. In reaching this determination, we are guided by the fact that the Commission never proposed to issue, and never issued, an order rescinding the Class D Note, or otherwise deleting the Class D Note from § 73.3527. Our reinstatement of the exemption is consistent with the holdings in the 1976 R&O and 1984 R&O—as clarified by the 1985 Bureau Order—that Class D FM stations should be exempt from the issues/programs list requirement. Accordingly, to provide clarity to Class D FM stations and to conform to the publishing conventions of the National Archives and Records Administration's Office of the Federal Register, we amend § 73.3527(e)(8) as set out in the Appendix by including the text of the Class D Note.

8. We find that notice and comment procedures are unnecessary under the good cause exception of the Administrative Procedure Act because re-codifying the inadvertently deleted text of the deleted Class D Note merely restores an exemption to § 73.3527 that the Commission established and has never sought to change in subsequent rulemaking actions. Consequently, we find notice and comment procedures are unnecessary for this action.

9. Finally, we disavow the Bureau's holding in UMW. As discussed above, the 1985 Bureau Order clearly states that Class D FM stations were meant to be exempted from the issues/programs lists requirement of § 73.3527, and no subsequent Commission decision changed that requirement. The removal of the Class D Note from § 73.3527 was not done pursuant to a Commission action, but rather through apparent inadvertence. Therefore, that exemption is still valid, and UMW provides an example of the importance of reflecting this exemption within the text of § 73.3527(e)(8).

**Procedural Matters**

10. *Regulatory Flexibility Analysis.* Because these rule changes are being adopted without notice and comment, the Regulatory Flexibility Act does not apply. See 5 U.S.C. 601(2).

11. *Paperwork Reduction Act Analysis.* The document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Therefore, it does not contain any new of modified information collection burdens for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198. See 44 U.S.C. 3506(c)(4).

12. *Congressional Review Act.* The Media Bureau has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Media Bureau will send a copy of this Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

**Ordering Clauses**

13. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 4(j), 301, 303, 307, 308, 309, 316, and 319 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, 303, 307, 308, 309, 316, and 319, the Order *is adopted* and *will become effective* 30 days after publication in the **Federal Register**.

14. *It is further ordered* that part 73 of the Commission's rules *is amended* as set forth in the Final Rules, effective as of thirty (30) days after the date of publication in the **Federal Register**.

15. *It is further ordered* that the Media Bureau *shall send* a copy of the Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

16. *It is further ordered* that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 22–240 *shall be terminated* and its docket *closed.*

**List of Subjects in 47 CFR Part 73**

Communications equipment, Radio, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

**Thomas Horan,**

*Chief of Staff, Media Bureau.*

**Final Rules**

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 155, 301, 303, 307, 309, 310, 334, 336, 339.

■ 2. Amend § 73.3527 by revising the last sentence of paragraph (e)(8) to read as follows:

**§ 73.3527 Online public inspection file of noncommercial educational stations.**

* * * * *

(e) * * *

(8) * * * For the purposes of this section, exempt applicants, permittees, or licensees include those whose existing or prospective facilities are Class D FM stations or whose programming is wholly ''Instructional.''

* * * * *

[FR Doc. 2022–17337 Filed 8–11–22; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 95

**[ET Docket Nos. 16–56, 14–165, GN Docket No. 12–268; RM–11745; FCC 19–24; FR ID 1000333]**

### Unlicensed White Space Devices

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** The Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved, for a period of three years, the new information collection associated with the Commission's *Amendment of Part 15 of the Commission's Rules for Unlicensed White Space Devices* Report and Order and Order on Reconsideration. This document is consistent with the *Order,* which stated that the Commission would publish a document in the **Federal Register** announcing OMB approval and the effective date of the rules related to the information collection.

**DATES:** The amendment to 47 CFR 95.2309, published at 84 FR 34792, July 19, 2019, is effective August 12, 2022.

**FOR FURTHER INFORMATION CONTACT:** Hugh Van Tuyl, Office of Engineering and Technology, at (202) 418–7506, or email: *Hugh.VanTuyl@fcc.gov.*

For additional information concerning the Paperwork Reduction Act information collection requirements, contact Nicole Ongele at (202) 418–2991 or *nicole.ongele@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This document announces that, on November 4, 2019, OMB approved, for a period of three years, the information collection requirements relating to the White Space Database rules contained in the Commission's *Amendment of Part 15 of the Commission's Rules for Unlicensed White Space Devices,* Order, FCC 19–24 (84 FR 34792, July 19, 2019). The OMB Control Number is 3060–0953. The Commission publishes this document as an announcement of the effective date of the information collection requirements provided at 47 CFR 95.2309.

**Synopsis**

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received final OMB approval on November 4, 2019, for the information collection requirements contained in the Commission's rules in 47 CFR part 95.

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

No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a current, valid OMB Control Number. The OMB Control Number is 3060–0953.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104–13, October 1, 1995, and 44 U.S.C. 3507.

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

*OMB Control Number:* 3060–0953.

*OMB Approval Date:* November 4, 2019.

*OMB Expiration Date:* November 30, 2022.

*Title:* Sections 95.2309, Frequency Coordination/Coordinator, Wireless Medical Telemetry Service.

*Form Number:* N/A.

*Respondents:* Business or other for-profit, Not-for-profit institutions.

*Number of Respondents and Responses:* 3,000 respondents; 3,000 responses.

*Estimated Time per Response:* 2–5 hours.

*Frequency of Response:* Recordkeeping requirement, third-party disclosure requirement and on occasion and one-time requirements.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this information collection is contained in sections 47 U.S.C. 4(i), 302, 303(b), (c), (e), (f), (r), and 307.

*Total Annual Burden:* 15,000 hours.

*Total Annual Cost:* $750,000.

*Nature and Extent of Confidentiality:* No information is requested that would require assurance of confidentiality.

*Privacy Act Impact Assessment:* No impact(s).

*Needs and Uses:* On March 20, 2019, the Federal Communications Commission released a Report and Order and Order on Reconsideration, Amendment of Part 15 of the Commission's Rules for Unlicensed White Space Devices, Amendment of Part 15 of the Commission's Rules for Unlicensed Operations in the Television Bands, Repurposed 600 MHz Band, 600 MHz Guard Bands and Duplex Gap, and Channel 37; Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, ET Docket Nos. 16–56, 14–165, GN Docket No 12–268 and RM–11745, FCC 19–24. The Federal Communications Commission reinstated a white space database rule that had been inadvertently removed from part 95. Specifically, it restored the deleted rule text to a new Section 95.2309 (h), which states that parties operating WMTS networks on Channel 37 (608–614 MHz) must notify one of the white space database administrators of their operating location to obtain interference protection from white space devices.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2022–17374 Filed 8–11–22; 8:45 am]

**BILLING CODE 6712–01–P**

# Proposed Rules

Federal Register
Vol. 87, No. 155
Friday, August 12, 2022

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

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2022–0988; Project Identifier MCAI–2021–00438–R]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Helicopters

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for Airbus Helicopters Model SA–365N, SA–365N1, AS–365N2, AS 365 N3, EC 155B, and EC155B1 helicopters. This proposed AD was prompted by reports of the cockpit doors failing to open after ditching with inflated floats on certain helicopters equipped with an emergency flotation system (EFS). This proposed AD would require revising the existing Rotorcraft Flight Manual (RFM) for your helicopter, installing placards, and depending on your model helicopter, modification of the jettisoning system, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by September 26, 2022.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For EASA material that is proposed for IBR in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu;* internet *www.easa.europa.eu.* For Airbus Helicopters service information identified in this NPRM, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *www.airbus.com/helicopters/services/technical-support.html.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. The EASA material is also available at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0988.

### Examining the AD Docket

You may examine the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0988; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7323; email *Darren.Gassetto@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0988; Project Identifier MCAI–2021–00438–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7323; email *Darren.Gassetto@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

### Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued a series of ADs, with the most recent being EASA AD 2021–0101R1, dated February 25, 2022 (EASA AD 2021–0101R1), to correct an unsafe condition for Airbus Helicopters (AH), formerly Eurocopter, Eurocopter France, Aerospatiale, Sud Aviation, Model SA

365 N, SA 365 N1, AS 365 N2, AS 365 N3, EC 155 B, and EC 155 B1 helicopters.

EASA initially issued EASA AD 2021–0041, dated January 28, 2021 (EASA AD 2021–0041), for certain Model SA 365 N, SA 365 N1, AS 365 N2, AS 365 N3, EC 155 B, and EC 155 B1 helicopters, which required modifying the jettisoning system by installing an external handle on the jettison system of the pilot and co-pilot doors on certain Model SA/AS 365 helicopters, installing external instruction placards on the left-hand (LH) and right-hand (RH) side of the helicopter, and amending the RFM. EASA later issued EASA AD 2021–0101, dated April 12, 2021 (EASA AD 2021–0101), which superseded EASA AD 2021–0041, to also address Model AS 365 helicopters with the Airbus Helicopters Forward Looking InfraRed (AH FLIR) system installed.

EASA AD 2021–0101R1 retains the requirements of EASA AD 2021–0101 and extends the compliance time for Model SA 365 N, SA 365 N1, AS 365 N2, and AS 365 N3 helicopters, if equipped with the fixed parts of the AH FLIR system installation and that are not equipped with an EFS with a certain cabin layout where the passage between cabin and cockpit is smaller than a Type 4 passage (as defined in EASA AD 2021–0101R1); except helicopters that have Airbus Helicopters modification (AH MOD) MC90B73 embodied in production.

This proposed AD was prompted by reports of failure of the cockpit doors to open after ditching with inflated floats on certain helicopters equipped with an EFS. EASA advises emergency evacuation was only possible by jettisoning the hinged doors from the inside or by accessing the emergency exits in the cabin. EASA further advises that the passage from the cockpit to the cabin may be impaired on helicopters with certain interior layouts.

The FAA is proposing this AD to prevent cockpit doors failing to open during an emergency evacuation after an emergency ditching with inflated floats, which could result in the prevention of incapacitated occupants exiting the helicopter during an emergency from the outside by external rescuers. See EASA AD 2021–0101R1 for additional background information.

**Related Service Information Under 1 CFR Part 51**

EASA AD 2021–0101R1 requires amending the RFM; installing placards on the LH and RH side of the helicopter; and for certain helicopters, modifying the jettison system by installing an external handle on the jettison system of the pilot and co-pilot doors.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Other Related Service Information**

The FAA reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. AS365–52.00.27, Revision 1, dated June 4, 2021 (AS365–52.00.27, Rev 1), which specifies procedures for installing labels (placards) on the pilot and co-pilot doors. AS365–52.00.27, Rev 1, also specifies procedures for installing an external handle on the jettison system.

The FAA also reviewed Airbus Helicopters ASB No. AS365–52.00.29, Revision 1, dated February 9, 2022, ASB No. AS365–52.00.29, Revision 0, dated February 10, 2021, and ASB No. EC155–52A033, Revision 0, dated September 30, 2020. This service information specifies procedures for installing labels (placards) on the pilot and co-pilot doors.

The FAA also reviewed Airbus Helicopters Flight Manual (FM) SA 365 N Supplement, SUP.10.4, Normal Revision (NR) 7, date code 20–40; Airbus Helicopters FM SA 365 N1 Supplement, SUP.10.4, NR 9, date code 20–40; Airbus Helicopters FM AS 365 N2 Supplement, SUP.14, NR 6, date code 20–40; Airbus Helicopters FM AS 365 N3 Supplement, SUP.14, NR 12, date code 20–28; Airbus Helicopters FM EC 155 B Supplement, SUP.14, NR 7, date code 20–11; and Airbus Helicopters FM EC 155 B1 Supplement, SUP.14, NR 8, date code 20–11. This service information provides updated procedures for ditching and emergency evacuation.

**FAA's Determination**

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other helicopters of these same type designs.

**Proposed AD Requirements in This NPRM**

This proposed AD would require accomplishing the actions specified in EASA AD 2021–0101R1, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and EASA AD 2021–0101R1.''

This proposed AD would also require revising the existing RFM for your helicopter by updating the normal procedures section. Incorporating the RFM revision may be performed by the owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

**Explanation of Required Compliance Information**

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2021–0101R1 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0101R1 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0101R1 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2021–0101R1. Service information referenced in EASA AD 2021–0101R1 for compliance will be available at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0988 after the FAA final rule is published.

**Differences Between This Proposed AD and EASA AD 2021–0101R1**

EASA AD 2021–0101R1 allows using Airbus Helicopters ASB No. AS365–52.00.27, original issue, dated November 17, 2020 (including Erratum to ASB AS365–52.00.27, original issue, dated January 21, 2021); whereas this proposed AD would not. This proposed AD would require using Airbus Helicopters ASB No. AS365–52.00.27, Revision 1, dated June 4, 2021, instead.

Where paragraph (2) of EASA AD 2021–0101R1 specifies to ''modify the helicopter in accordance with the instructions of Section 3 of the applicable ASB,'' this proposed AD would require using the instructions of Section 3.B. of the applicable ASB.

EASA AD 2021–0101R1 requires operators to ''inform all flight crews'' of revisions to the RFM, and thereafter to ''operate the helicopter accordingly.'' However, this proposed AD would not specifically require those actions. FAA regulations mandate compliance with only the operating limitations section of the flight manual. The flight manual changes required by this proposed AD would apply to the emergency procedures and normal procedures sections of the existing RFM for your helicopter. Furthermore, compliance with such requirements in an AD is impracticable to demonstrate or track on an ongoing basis; therefore, a requirement to operate the aircraft in such a manner is unenforceable. Nonetheless, the FAA recommends that flight crews of the helicopters listed in the applicability operate in accordance with the revised emergency procedures and normal procedures proposed by this AD.

This proposed AD would allow the owner/operator (pilot) holding at least a private pilot certificate to revise the existing RFM for your helicopter and do the logbook entry, where as EASA AD 2021–0101R1 does not specify this. This proposed AD would require these actions to be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

For certain helicopters, this proposed AD would require revising section 4.1, Normal Procedures, of the existing RFM for your helicopter to add a check to the RH and LH Cockpit Door Jettison Handles, whereas EASA AD 2021–0101R1 does not require that action.

## Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 40 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this proposed AD.

Revising the existing RFM for your helicopter would take about 0.25 work-hour for an estimated cost of $21 per helicopter and $840 for the U.S. fleet.

Installing placards on the pilot and co-pilot doors would take about 1 work-hour and parts would cost up to about $138 for an estimated cost of up to $223 per helicopter.

For helicopters with the AH FLIR system installed, installing placards on the pilot and co-pilot doors would take about 0.5 work-hour and parts would cost about $52 for an estimated cost of $95 per helicopter.

If required, installing an external handle on the jettison system would take about 7 work-hours and parts would cost about $1,328 for an estimated cost of $1,923 per helicopter and $51,921 for the U.S. fleet (27 helicopters).

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

## Authority for This Rulemaking

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

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

## Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

## List of Subjects in 14 CFR Part 39

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

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**Airbus Helicopters:** Docket No. FAA–2022–0988; Project Identifier MCAI–2021–00438–R.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by September 26, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to all Airbus Helicopters Model SA–365N, SA–365N1, AS–365N2, AS 365 N3, EC 155B, and EC155B1 helicopters, certificated in any category.

**(d) Subject**

Joint Aircraft Service Component (JASC) Codes: 1100, Placards and Markings; and 5210, Passenger/Crew Doors.

**(e) Unsafe Condition**

This AD was prompted by reports of failure of the cockpit doors to open after ditching with inflated floats on certain helicopters equipped with an emergency flotation system (EFS). The FAA is issuing this AD to inform external rescuers that the cockpit door jettison function needs to be utilized to successfully egress incapacitated flight crew from the cockpit during an emergency when the EFS is activated. This unsafe condition, if not addressed, could result in incapacitated occupants not being able to exit the helicopter after an emergency ditching with inflated floats.

**(f) Compliance**

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

**(g) Requirements**

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation

Safety Agency (EASA) AD 2021–0101R1, dated February 25, 2022 (EASA AD 2021–0101R1) and paragraph (i) of this AD.

**(h) Exceptions to EASA AD 2021–0101R1**

(1) Where EASA AD 2021–0101R1 refers to effective dates ''11 February 2021 [the effective date of EASA AD 2021–0041]'' and ''26 April 2021 [the effective date of the original issue of this AD],'' this AD requires using the effective date of this AD.

(2) Where paragraph (1) of EASA AD 2021–0101R1 specifies to ''inform all flight crews and, thereafter, operate the helicopter accordingly,'' this AD does not require those actions.

(3) The action required by paragraph (1) of EASA AD 2021–0101R1 may be performed by the owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(4) Where paragraph (2) of EASA AD 2021–0101R1 specifies to ''modify the helicopter in accordance with the instructions of Section 3 of the applicable ASB,'' for this AD, replace that text with, ''modify the helicopter in accordance with Section 3.B. in the Accomplishment Instructions of the applicable ASB.''

(5) Where EASA AD 2021–0101R1 refers to ''ASB AS365–52.00.27'' and ''AH ASB AS365–52.00.27 original issue dated 17 November 2020 (including Erratum to ASB AS365–52.00.27 original issue dated 21 January 2021),'' this AD requires replacing each instance of that text with ''Airbus Helicopters Alert Service Bulletin No. AS365–52.00.27, Revision 1, dated June 4, 2021.''

(6) Where the service information referenced in paragraph (2) of EASA AD 2021–0101R1 specifies discarding parts, this AD requires removing those parts from service.

(7) Where the service information referenced in paragraph (2) of EASA AD 2021–0101R1 specifies to use tooling, this AD allows the use of equivalent tooling.

(8) Where the service information referenced in paragraph (2) of EASA AD 2021–0101R1 specifies parking the helicopter in a hangar or maintenance hangar, this AD does not require those actions.

(9) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0101R1.

**(i) Required Rotorcraft Flight Manual (RFM) Amendment**

(1) For Group 2 helicopters as defined in EASA AD 2021–0101R1, concurrently with accomplishing the actions specified in paragraph (1) of EASA AD 2021–0101R1, revise the existing RFM for your helicopter by adding the following text at the end of section 4.1, Normal Procedures: ''right and left hand Cockpit Door Jettison Handles are properly closed and secured.''

(2) The action required by paragraph (i)(1) of this AD may be performed by the owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

**(k) Related Information**

(1) For EASA AD 2021–0101R1, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0988.

(2) For more information about this AD, contact Darren Gassetto, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7323; email *Darren.Gassetto@faa.gov.*

(3) For Airbus Helicopters service information identified in this AD, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *www.airbus.com/helicopters/services/technical-support.html.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

Issued on July 27, 2022.

**Christina Underwood,**

*Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–16776 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2022–0993; Project Identifier MCAI–2022–00295–T]**

**RIN 2120–AA64**

## Airworthiness Directives; De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain De Havilland Aircraft of Canada Limited Model DHC–8–402 airplanes. This proposed AD was prompted by an investigation that found that the actual operating temperatures within the integrated flight cabinet (IFC) were significantly higher than anticipated during certification. This proposed AD would require a design change to improve the integrated flight cabinet (IFC) cooling capacity. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by September 26, 2022.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact De Havilland Aircraft of Canada Limited, Dash 8 Series Customer Response Centre, 5800 Explorer Drive, Mississauga, Ontario, Canada, L4W 5K9; telephone North America (toll-free): +1 855–310–1013, Direct: +1 647–277–5820; email *thd@dehavilland.com;* internet *https://dehavilland.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For

information on the availability of this material at the FAA, call 206–231–3195.

**Examining the AD Docket**

You may examine the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0993; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Gabriel Kim, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0993; Project Identifier MCAI–2022–00295–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

**Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Gabriel Kim, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov*. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Background**

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2022–09, dated March 3, 2022 (TCCA AD CF–2022–09) (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain De Havilland Aircraft of Canada Limited (formerly Bombardier Inc.) model DHC–8–401 and –402 airplanes. You may examine the MCAI in the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0993.

This proposed AD was prompted by an investigation that found that the actual operating temperatures within the IFC were significantly higher than anticipated during certification. Consequently, the reliability of the IFC module does not meet safety objectives. The FAA is proposing this AD to address the high operating temperatures within the IFC, which could lead to uncontrolled autopilot pitch trim servo runaway and failure of the stall warning and stick pusher, resulting in reduced controllability of the airplane. See the MCAI for additional background information.

**Related Service Information Under 1 CFR Part 51**

De Havilland Aircraft of Canada Limited has issued Service Bulletin 84–21–24, Revision B, dated October 13, 2021. This service information describes procedures for a modification to improve the integrated flight cabinet (IFC) cooling capacity. The tasks include reworking the forward and aft avionics rack side panels, removing the piccolo tube assemblies, doing a general visual inspection for contamination of the IFCs and avionics rack, cleaning any contamination found, installing and routing new cooling ducts, and installing two new extraction plenums in the avionics rack cooling system.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**FAA's Determination**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

**Proposed AD Requirements in This NPRM**

This proposed AD would require accomplishing the actions specified in the service information already described.

**Differences Between This Proposed AD and the MCAI**

TCCA AD CF–2022–09 states that the AD applies to Model DHC–8–401 and –402 airplanes, serial numbers 4095 through 4633. However, all airplanes with serial numbers 4095 through 4633 are Model DHC–8–402 airplanes. No Model DHC–8–401 airplanes are affected by the unsafe condition identified in this proposed AD. Therefore, this proposed AD does not refer to Model DHC–8–401 airplanes in the applicability.

**Costs of Compliance**

The FAA estimates that this AD, if adopted as proposed, would affect 56 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 11 work-hours × $85 per hour = $935 | $6,950 | $7,885 | $441,560 |

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

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**De Havilland Aircraft of Canada Limited (Type Certificate Previously Held by Bombardier, Inc.):** Docket No. FAA–2022–0993; Project Identifier MCAI–2022–00295–T.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by September 26, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to De Havilland Aircraft of Canada Limited (formerly Bombardier Inc.) Model DHC–8–402 airplanes, certificated in any category, serial numbers 4095 through 4633 inclusive.

**(d) Subject**

Air Transport Association (ATA) of America Code 21, Air Conditioning System.

**(e) Unsafe Condition**

This AD was prompted by an investigation that found that the actual operating temperatures within the integrated flight cabinet (IFC) were significantly higher than anticipated during the certification. Consequently, the reliability of the IFC module does not meet safety objectives. The FAA is issuing this AD to address the high operating temperatures within the IFC, which could lead to uncontrolled autopilot pitch trim servo runaway and failure of the stall warning and stick pusher, resulting in reduced controllability of the airplane.

**(f) Compliance**

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

**(g) Required Actions**

Within 8,000 flight hours or 48 months, whichever occurs first, from the effective date of this AD, do a modification to improve the integrated flight cabinet (IFC) cooling capacity, in accordance with the Accomplishment Instructions of De Havilland Aircraft of Canada Limited Service Bulletin 84–21–24, Revision B, dated Oct 13, 2021.

**(h) Credit for Previous Actions**

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using De Havilland Aircraft of Canada Limited Service Bulletin 84–21–24, Revision A, dated August 20, 2021.

**(i) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or De Havilland Aircraft of Canada Limited's TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(j) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2022–09, dated March 3, 2022, for related information. This MCAI may be found in the AD docket on the internet at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0993.

(2) For more information about this AD, contact Gabriel Kim, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov*.

(3) For service information identified in this AD, contact De Havilland Aircraft of Canada Limited, Dash 8 Series Customer Response Centre, 5800 Explorer Drive,

Mississauga, Ontario, Canada, L4W 5K9; telephone North America (toll-free): +1 855–310–1013, Direct: +1 647–277–5820; email *thd@dehavilland.com;* internet *https://dehavilland.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on August 4, 2022.

**Christina Underwood,**

*Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–17120 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2022–0995; Project Identifier MCAI–2021–01365–T]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier, Inc., Airplanes

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to adopt a new airworthiness directive (AD) for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. This proposed AD was prompted by reports of the passenger door failing to dampen during opening at regularly scheduled maintenance checks, causing the door to open more rapidly than normal. An investigation found that a contributing factor was erroneous aircraft maintenance manual (AMM) procedures. This proposed AD would prohibit using certain versions of certain aircraft maintenance manual (AMM) tasks for the passenger door. The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by September 26, 2022.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Examining the AD Docket**

You may examine the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0995; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Chirayu Gupta, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0995; Project Identifier MCAI–2021–01365–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

**Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Chirayu Gupta, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Background**

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2021–41, dated November 24, 2021 (TCCA AD CF–2021–41) (also referred to after this as the MCAI), to correct an unsafe condition for certain Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes. You may examine the MCAI in the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0995.

This proposed AD was prompted reports of the passenger door failing to dampen during opening at regularly scheduled maintenance checks, causing the door to open more rapidly than normal. An investigation found that a contributing factor was erroneous AMM procedures. The AMM tasks related to passenger door maintenance have since been corrected, and only versions of these tasks dated May 19, 2021, or later have the correct procedures. The FAA is proposing this AD to prevent rapid opening of the passenger door, which can result in damage to the door and consequent injury to maintenance personnel. See the MCAI for additional background information.

**FAA's Determination**

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the MCAI and service information referenced above. The FAA is proposing this AD because the FAA evaluated all the relevant information and determined the unsafe condition

described previously is likely to exist or develop on other products of the same type design.

**Proposed Requirements of This NPRM**

This proposed AD would prohibit using versions issued prior to May 19, 2021 of certain AMM tasks for the passenger door.

**Costs of Compliance**

The FAA estimates that this proposed AD affects 408 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

| Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|
| 1 work-hour × $85 per hour = $85 | $0 | $85 | $34,680 |

**Authority for This Rulemaking**

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

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

**Regulatory Findings**

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

**List of Subjects in 14 CFR Part 39**

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

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

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

**Bombardier Inc.:** Docket No. FAA–2022–0995; Project Identifier MCAI–2021–01365–T.

**(a) Comments Due Date**

The FAA must receive comments on this airworthiness directive (AD) by September 26, 2022.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Bombardier, Inc., Model BD–700–1A10 and BD–700–1A11 airplanes, certificated in any category, serial numbers (S/Ns) 9002 through 9998 inclusive, and S/Ns 60001 through 60045 inclusive.

**(d) Subject**

Air Transport Association (ATA) of America Code 52, Doors.

**(e) Reason**

This AD was prompted by reports of the passenger door failing to dampen during opening at regularly scheduled maintenance checks, causing the door to open more rapidly than normal. An investigation found that a contributing factor was erroneous aircraft maintenance manual (AMM) procedures. The FAA is issuing this AD to prevent rapid opening of the passenger door, which can result in damage to the door and consequent injury to maintenance personnel.

**(f) Compliance**

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

**(g) Maintenance or Inspection Program Task Restrictions**

As of 30 days after the effective date of this AD, when performing the maintenance tasks identified in figure 1 to paragraph (g) of this AD, do not use any version of any task identified in figure 1 to paragraph (g) of this AD that was issued prior to May 19, 2021.

BILLING CODE 4910–13–P

**Figure 1 to paragraph (g) – *AMM Tasks***

| AMM Task Number | Task Title |
|---|---|
| 52-11-00-280-801 | Rigging Check of the Passenger Door |
| 52-11-00-400-801 | Installation of the Passenger Door |
| 52-11-00-710-801 | Operational Test of the Passenger Door |
| 52-11-00-820-801 | Rigging of the Passenger Door |
| 52-11-25-000-801 | Removal of the Passenger Door Actuator |
| 52-11-25-400-801 | Installation of the Passenger Door Actuator |
| 52-11-25-820-801 | Rigging of the Passenger Door Actuator |
| 52-11-33-000-801 | Removal of the Passenger Door Chain |
| 52-11-33-400-801 | Installation of the Passenger Door Chain |
| 52-11-41-000-801 | Removal of the Passenger Door Tensator-Springs |

**(h) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, New York ACO Branch, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

**(i) Related Information**

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2021–41, dated November 24, 2021; for related information. This MCAI may be found in the AD docket at *www.regulations.gov* by searching for and locating Docket No. FAA–2022–0995.

(2) For more information about this AD, contact Chirayu Gupta, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

Issued on August 4, 2022.

**Christina Underwood,**

*Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2022–17122 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–13–C**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2022–0773; Airspace Docket No. 22–ACE–14]**

**RIN 2120–AA66**

## Proposed Amendment of Class E Airspace; Bloomfield, IA

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to amend the Class E airspace at Bloomfield, IA. The FAA is proposing this action as the result of an airspace review as part of the decommissioning of the Bloomfield non-directional beacon (NDB).

**DATES:** Comments must be received on or before September 26, 2022.

**ADDRESSES:** Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2022–0773/Airspace Docket No. 22–ACE–14 at the beginning of your comments. You may also submit comments through the internet at *www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

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

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

**SUPPLEMENTARY INFORMATION:**

**Authority for This Rulemaking**

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

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–0773/Airspace Docket No. 22–ACE–14.'' The postcard will be date/time stamped and returned to the commenter.

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

**Availability of NPRMs**

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

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

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

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

**The Proposal**

The FAA is proposing an amendment to 14 CFR part 71 by amending the Class E airspace extending upward from 700 feet at Bloomfield Municipal Airport, Bloomfield, IA, by removing the Bloomfield NDB and the associated extension from the airspace legal description.

This action is necessary due to an airspace review as part of the decommissioning of the Bloomfield NDB.

Class E airspace designations are published in paragraph 6005 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

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

**Regulatory Notices and Analyses**

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

**Environmental Review**

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

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

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

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

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

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

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

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

* * * * *

**ACE IA E5 Bloomfield, IA [Amended]**

Bloomfield Municipal Airport, IA
(Lat. 40°43′56″ N, long. 92°25′42″ W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Bloomfield Municipal Airport.

Issued in Fort Worth, Texas, on August 4, 2022.

**Martin A. Skinner,**

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

[FR Doc. 2022–17051 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Docket No. FAA–2022–0922; Airspace Docket No. 22–ASO–15]**

**RIN 2022–AA66**

## Proposed Establishment of Class D Airspace, and Proposed Amendment of Class E Airspace; Selma, AL.

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to establish Class D airspace for Craig Field, Selma, AL, as a new air traffic control tower will service the airport. This action would also amend Class E airspace extending upward from 700 feet above the surface by updating the radius and geographic coordinates of the airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

**DATES:** Comments must be received on or before September 26, 2022.

**ADDRESSES:** Send comments on this proposal to: The U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify Docket No. FAA–2022–0922; Airspace Docket No. 22–ASO–15 at the beginning of your comments. You may also submit comments through the internet at *www.regulations.gov.*

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

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

**SUPPLEMENTARY INFORMATION:**

### Authority for This Rulemaking

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

### Comments Invited

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

Communications should identify both docket numbers (Docket No. FAA–2022–0922 and Airspace Docket No. 22–ASO–15) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for the address and phone number). You may also submit comments through the internet at *www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–0922; Airspace Docket No. 22–ASO–015''. The postcard will be date/time stamped and returned to the commenter.

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

### Availability of NPRMs

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

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

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

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this document. FAA Order JO 7400.11F lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

### The Proposal

The FAA proposes an amendment to Title 14 CFR part 71 to establish Class D airspace in Selma, AL, as a new air traffic control tower will service Craig Field Airport. Also, Class E airspace extending upward from 700 feet above the surface would be amended for Craig Field Airport, as an airspace evaluation determined the radius required an increase to 10.2 miles (formerly 7

miles), as well as updating the airport's geographic coordinates to coincide with the FAA's database. In addition, the city name would be removed from the second line of the Class E descriptor header, as per FAA Order 7400.2N.

Class D and Class E airspace designations are published in Paragraphs 5000, and 6005, respectively, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11F.

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

**Regulatory Notices and Analyses**

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

**Environmental Review**

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

**Lists of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

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

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

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

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

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

*Paragraph 5000 Class D Airspace*

* * * * *

**ASO AL D Selma, AL [Established]**

Craig Field Airport, AL
(Lat. 32°20′38″ N, long. 86°59′16″ W)

That airspace extending upward from the surface up to and including 3,000 feet MSL, within a 4.3-mile radius of Craig Field Airport, and within 1.2 miles each side of the 146° bearing, extending from the 4.3-mile radius to 6.3 miles southeast of the airport; and within 1-mile each side of the 326° bearing, extending from the 4.3-mile radius to 6.3 miles northwest of the airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Air Missions. The effective days and times will thereafter be continuously published in the Chart Supplement.

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

* * * * *

**ASO AL E5 Selma, AL [Amended]**

Craig Field Airport, AL
(Lat. 32°20′38″ N, long. 86°59′16″ W)

That airspace extending upward from 700 feet above the surface within a 10.2-mile radius of Craig Field Airport.

Issued in College Park, Georgia, on August 4, 2022.

**Andreese C. Davis,**

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

[FR Doc. 2022–17129 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## 18 CFR Part 1d

**[Docket No. RM22–20–000]**

## Duty of Candor

**AGENCY:** Federal Energy Regulatory Commission, Department of Energy.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) proposes to add a requirement that all entities communicating with the Commission or other specified organizations related to a matter subject to the jurisdiction of the Commission submit accurate and factual information and not submit false or misleading information or omit material information. An entity is shielded from violation of the regulation if it has exercised due diligence to prevent such occurrences.

**DATES:** Comments are due October 11, 2022.

**ADDRESSES:** Comments, identified by docket number, may be filed in the following ways. Electronic filing through *https://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by U.S. Postal Service mail or by hand (including courier) delivery.

○ *Mail via U.S. Postal Service only:* Addressed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426.

○ *For delivery via any other carrier (including courier):* Deliver to: Federal Energy Regulatory Commission, Office of the Secretary, 12225 Wilkins Avenue, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:**

Gabe Sterling, Legal Information Office of Enforcement, Division of Investigations, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8891, *gabriel.sterling@ferc.gov.*

Andrea Cerbin, Legal Information Office of Enforcement, Division of Investigations, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8362, *andrea.cerbin@ferc.gov.*

**SUPPLEMENTARY INFORMATION:** **Table of Contents**



1. Pursuant to sections 206, 215, 307, and 309 of the Federal Power Act (FPA),[1] sections 5, 14, and 16 of the Natural Gas Act (NGA),[2] sections 1(5)(a), 12(1)(a), 13, and 15 of the Interstate Commerce Act (ICA),[3] sections 311(c) and 501(a) of the Natural Gas Policy Act of 1978 (NGPA),[4] and sections 402(a)(2) and 402(h) of the Department of Energy Organization Act,[5] the Commission proposes to add a new part 1d to title 18 of the Code of Federal Regulations to require that any entity communicating with the Commission or other specified organizations (as identified below) related to a matter subject to the jurisdiction of the Commission submit accurate and factual information and not submit false or misleading information, or omit material information.[6] However, the Commission proposes that exercising due diligence to prevent such occurrences would be an affirmative defense to violations of the requirement.

2. A variety of current Commission regulations prohibit, in defined circumstances, inaccurate communications to the Commission and other organizations upon which the Commission relies to carry out its statutory obligations in the Commission-jurisdictional electric, natural gas, and oil industries and markets. However, these existing requirements cover only certain communications and impose a patchwork of different standards of care for such communications.

3. The Commission relies extensively upon the accuracy of information provided to it and to other organizations for effective decision making. Reliance on inaccurate information inhibits the Commission's regulatory oversight and could lead to substantial harm, whether it is communicated to the Commission or to the other organizations upon which the Commission relies to assist it to carry out its regulatory responsibilities. We are concerned that the Commission has no explicit requirement that communications related to a matter subject to the jurisdiction of the Commission be accurate or even that they not include intentional misrepresentations.

4. We believe that a broadly applicable duty of candor will improve the Commission's ability to effectively oversee jurisdictional markets by ensuring the Commission and organizations upon which the Commission relies base decisions on accurate information. Effective Commission oversight depends on entities' use of due diligence to reduce the possibility that false or inaccurate information is communicated to the Commission and other organizations upon which it relies. Further, intentional or reckless communication of false or inaccurate information is always unacceptable.

5. All persons appearing before the Commission and entities communicating with organizations regulated by the Commission should know that truthfulness is expected and required, that communications should be made following due diligence, and that communications should never be intentionally or recklessly misleading. However, we understand that there is a balance between ensuring accurate communications and the burden required to ensure that accuracy. By adopting a flexible standard, ''due diligence,'' and limiting the relevant communications to specific recipients related to matters subject to the jurisdiction of the Commission, we expect that such additional burdens, if any, would be minimal.

6. We seek comment on all aspects of the proposed rule, including specifically the following: the need for a broad duty of candor rule; whether 18 CFR 35.41(b) provides a reasonable foundation for the proposed expanded duty of candor rule; the Commission's authority for the proposed rule; whether there are categories of entities or individuals that should be exempted from the duty of candor; the scope of the communications covered by the rule; and whether the regulation properly identifies all organizations who assist the Commission to carry out its statutory obligations and communications to whom should be subject to a duty of candor.

## I. Background

7. Among the existing patchwork of Commission requirements imposing a duty of candor applicable to some Commission-regulated entities and markets is 18 CFR 35.41(b), which applies only to ''Sellers'' in electric markets, defined as a person who has either obtained or applied for market-based rate authority under the auspices of the FPA.[7] The Commission proposes here to adopt a broader regulation based upon our significant experience with § 35.41(b). By way of background, we first discuss some of the other duties of candor applicable to entities within the Commission's jurisdiction. Then, we

[1] 16 U.S.C. 824e, 824o, 825f, 825h.

[2] 15 U.S.C. 717d, 717m, 717o.

[3] 49 U.S.C. app. 1(5)(a), 12(1)(a), 13, 15.

[4] 15 U.S.C. 3371(c), 3411(a).

[5] 42 U.S.C. 7172(a)(2), (h).

[6] The dissent argues that the rule applies to a ''lack of communication,'' which is not accurate. While a material omission in a communication could violate the rule, a lack of communication would not. As this notice of proposed rulemaking (NOPR) explains, this proposal does not impose a duty of disclosure.

[7] A ''Seller'' is ''any person that has authorization to or seeks authorization to engage in sales for resale of electric energy, capacity or ancillary services at market-based rates under section 205 of the Federal Power Act.'' 18 CFR 35.36(a)(1).

discuss 18 CFR 35.41(b) and its history in greater detail. Then, we turn to the limitations of these requirements.

*A. Existing Duties of Candor*

8. The Commission has adopted various regulations imposing a duty of candor for specific types of communications, and the vast majority of these regulations involve communications to the Commission or Commission staff. In each instance, the controlling regulation was adopted as part of specific regulatory requirements or procedures rather than as a broad requirement applicable to all of the Commission's oversight responsibilities, including areas where the Commission relies on other organizations to assist it in exercising its authorities. This history, discussed in the paragraphs to follow, has resulted in a limited set of requirements that may fail to ensure that the Commission can make decisions based on accurate information.

9. For many decades, the Commission's governing statutes and adopted regulations have required that certain submissions to it be made under oath and penalty of perjury. For example, FPA 304 requires that entities submit periodic or annual reports under oath,[8] FPA 307(a) requires that written statements in investigations be under oath,[9] and FPA 4(b) allows the Commission to require certain hydroelectric-related filings to be submitted under oath.[10] The NGA allows submissions under oath in investigations,[11] periodic forms must be provided under oath,[12] and 18 CFR 385.1907 requires compliance reports to be under oath as well. The provision in 18 CFR 385.2005 (Rule 2005 of the Commission's Rules of Practice and Procedure) requires that any filing with the Commission must be signed and that a signature constitutes a certificate that the signer knows the contents are true to the best of his/her knowledge and belief.[13] Testimony and evidence submitted in proceedings before Commission Administrative Law Judges must be submitted under oath.[14]

10. While the authorities referenced above require submissions to be made under oath, other regulations impose differing obligations for communications. For example, the Commission has interpreted 18 CFR 157.5 to require applicants under NGA 7 seeking pipeline certificates of public convenience and necessity to disclose ''fully and forthrightly . . . all information relevant to the application.'' [15] NGA 7(d) requires that applications for certificates shall be made in writing to the Commission, be verified under oath, and ''shall be in such form, contain such information, and notice thereof shall be served upon such interested parties and in such manner as the Commissions shall, by regulation, require.'' [16] ICA 20(7)(b) prohibits the knowing and willful filing of any ''false entry'' in any annual or other report required to be filed under this section.[17]

11. The Commission also has adopted amendments to blanket sales certificates ''to ensure the integrity of the natural gas market.'' [18] Citing staff's findings in its Final Report on the Western Energy Crisis,[19] the Commission expressed concerns about attempted manipulation in the natural gas industry such as ''reporting . . . false data'' and as a result agreed with staff's recommendation to ''condition natural gas companies' blanket certificates on providing accurate and honest information to entities that publish price indices.'' [20] Acting under NGA 7, the Commission also promulgated Market Behavior Rules, including rules specifically requiring Sellers that report their trades to index publishers to ''provide accurate and factual information and not knowingly submit false or misleading information or omit material information to any such publisher.'' [21] As the Commission stated, the candor requirement in the amendments to natural gas blanket sales certificates was simply to ''be honest and forthright with the Commission and the institutions it has established to implement open-access transportation and entities publishing indices for the purpose of price transparency.'' [22] These rules remain in place today.[23]

12. For individuals, the Commission's Rules of Practice and Procedure impose a duty of candor on those appearing before it: ''A person appearing before the Commission or the presiding officer must conform to the standards of ethical conduct required of practitioners before the Courts of the United States.'' [24] The minimum such standard is found in Rule 11 of the Federal Rules of Civil Procedure, which provides that any submission to the court impliedly certifies that factual or legal representations made therein have a reasonable basis in fact or law ''to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances.'' [25] Practitioners before the Courts of the United States are also bound by the ethical rules of any bar of which they are a member. The American Bar Association's Model Rules of Professional Conduct, upon which numerous state bar rules are based, provide, among other things, that ''a lawyer shall not knowingly make a false statement of fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer.'' [26] In addition to the explicit prohibition against ''knowingly'' making false statements, the official comments that accompany the Model Rules make clear that the lawyer is required to exercise due diligence to ensure, under certain circumstances, that the information provided is not false or misleading.[27]

13. Under 18 CFR 1c.1(a)(2) and 1c.2(a)(2), it is unlawful, in connection with jurisdictional natural gas and electric transactions, ''[t]o make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not

[8] 16 U.S.C. 825c.

[9] 16 U.S.C. 825f(a).

[10] 16 U.S.C. 797(b).

[11] 15 U.S.C. 717m(a).

[12] 15 U.S.C. 717i(a).

[13] 18 CFR 385.2005(a).

[14] *See, e.g.,* 18 CFR 385.506(b), 385.507(d).

[15] *See Black Marlin Pipeline Co.,* 4 FERC ¶ 61,039, at 61,088 (1978).

[16] 15 U.S.C. 717f(d).

[17] 49 U.S.C. App. 20(7)(b).

[18] *Amendments to Blanket Sales Certificates,* Order No. 644, 68 FR 66323 (Nov. 26, 2003), 105 FERC ¶ 61,217, at P 109 (2003).

[19] *Final Report on Price Manipulation in Western Markets: Fact-Finding Investigation of Potential Manipulation of Electric and Gas Prices,* Docket No. PA02–2–000 (Mar. 2003).

[20] Order No. 644, 105 FERC ¶ 61,217 at P 13.

[21] *Id.* P 70.

[22] *Id.* P 44.

[23] *See* 18 CFR 284.288(a), 284.403(a). These provisions were originally adopted as 18 CFR 284.288(b) and 284.403(b), but were re-ordered following revisions to those sections arising from the Commission's implementation of specific anti-manipulation authority granted by the Energy Policy Act of 2005's creation of new NGA section 4A. *See Amends. to Codes of Conduct for Unbundled Sales Srv. & for Persons Holding Blanket Mktg. Certificates,* Notice of Proposed Rulemaking, 70 FR 72090 (Dec. 1, 2005), 113 FERC ¶ 61,189 (2005); *Amends. to Codes of Conduct for Unbundled Sales Serv. & for Persons Holding Blanket Mktg. Certificates,* Order No. 673, 71 FR 9709 (Feb. 27, 2006), 114 FERC ¶ 61,166 (2006).

[24] 18 CFR 385.2101(c). ''Person'' in this context is not confined to attorneys, as non-attorneys may also appear before the Commission. 18 CFR 385.2101(a).

[25] Fed. R. Civ. P. 11(b).

[26] Model Rules of Prof'l Conduct R. 3.3(a)(1).

[27] Model Rules of Prof'l Conduct R. 3.3 cmt. 3 (''an assertion purporting to be on the lawyer's own knowledge, as in an affidavit by the lawyer or in a statement in open court, may properly be made only when the lawyer knows the assertion is true or believes it to be true on the basis of a reasonably diligent inquiry. There are circumstances where failure to make a disclosure is the equivalent of an affirmative misrepresentation.'').

misleading.'' [28] Order No. 670 explained that these regulations did not adopt a general affirmative duty of disclosure, but applied to communications whether they are voluntary or required.[29] Moreover, false statements by themselves are not actionable under the regulation. Rather, there is a violation only ''if all of the other elements of a violation are present'' (including scienter).[30]

14. Federal law, in fact, contemplates criminal sanctions for intentionally false statements made to any branch of the United States Government, including the Commission. Under 18 U.S.C. 1001(a), individuals who ''in any matter within the jurisdiction of the Government . . . make any materially false, fictitious, or fraudulent statement or representation'' can be fined or imprisoned for up to five years. However, the Commission has no authority to prosecute such violations.

15. Taken as a whole, these statutory and regulatory provisions create obligations for candor in various communications made to or before the Commission in a variety of circumstances. But these obligations are individually limited.

*B. 18 CFR 35.41(b)*

16. We believe that existing § 35.41(b) can form the basis for a broader rule that applies to a wider range of communications in the Commission's regulation of the electric, natural gas, and oil industries and markets.[31] Section 35.41(b) of the Commission's regulations prohibits false statements made by entities who have sought or obtained electric market-based rate authority. The provision currently provides that a Seller must provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission, with Commission-approved market monitors, with Commission-approved regional transmission organizations, with Commission-approved independent system operators, or with jurisdictional transmission providers, unless the Seller exercises due diligence to prevent such occurrences.

17. In the aftermath of the Western Energy Crisis, the Commission found that dishonest and abusive practices by Sellers with market-based rate authority led to unjust and unreasonable rates.[32] It also found that market-based rate Sellers were under an implicit duty not to engage in fraudulent or deceptive conduct.[33] When it instituted Market Behavior Rule 3 (later codified as 18 CFR 35.41(b)), the Commission explained that ''[t]he integrity of the processes established by the Commission for open competitive markets rely on the openness and honesty of market participant communications.'' [34] The Commission adopted the Market Behavior Rules for Sellers with market-based rate authority through its ratemaking authority under FPA 206.[35] The Commission found that Sellers' existing tariffs and authorizations, without clearly-delineated rules of the road to govern market participant conduct, were unjust and unreasonable. Without such behavioral prohibitions, the Commission found that it would not be able to ensure that rates are the product of competitive forces and thus would remain within a zone of reasonableness. It further found that its Market Behavior Rules ''will help ensure that rates are the product of competitive forces and thus remain just and reasonable.'' [36]

18. The duty of candor adopted in 18 CFR 35.41(b) has been upheld by the courts. For example, in *Kourouma,* the D.C. Circuit upheld the provision's constitutionality against a challenge based on alleged vagueness and lack of fair notice.[37] In *Coaltrain,* the U.S. District Court for the Southern District of Ohio upheld the Commission's authority to promulgate § 35.41(b) under FPA section 206 and found that the Commission properly applied § 35.41(b) to statements made in investigations.[38] The court also rejected the argument that, in adding section 221 to the FPA related to false reports to index publishers, Congress ''intended to narrowly circumscribe FERC's authority [to prohibit false statements], limiting it to highly specific statements in the price reporting area.'' [39]

19. Although § 35.41(b) has been an effective tool to ensure the accuracy of communications by Sellers (*i.e.,* persons which have sought or obtained Commission-approved market-based rate authority pursuant to FPA 205), there are a number of limitations that constrict its application and highlight the inconsistent levels of accuracy required of various entities in connection with different activities subject to the jurisdiction of the Commission.

*C. Limitations of the Existing Duty of Candor Rules*

20. As the above discussion demonstrates, the Commission has adopted a variety of duties of candor regarding communications made to it as well as to other entities, but it has not adopted a standardized requirement affecting all types of communications related to matters subject to the jurisdiction of the Commission.

21. Moreover, for many communications made to the Commission, and organizations upon which the Commission relies in carrying out its statutory responsibilities, there is no explicit requirement that such

[28] 18 CFR 1c.1(a)(2), 1c.2(a)(2).

[29] *Prohibition of Energy Mkt. Manipulation,* Order No. 670, 71 FR 4244 (Jan. 26, 2006), 114 FERC ¶ 61,047, at PP 35–37, 41–42 (2006).

[30] *Id.* P 41.

[31] In 2016, the Commission proposed a new rule requiring virtual traders and financial transmission rights (FTR) traders to report certain information about their legal and financial connections to other entities (*i.e.,* connected entity information). The Commission also proposed to extend the § 35.41(b) duty of candor to these traders. *See Data Collection for Analytics & Surveillance & Mkt.-Based Rate Purposes,* Notice of Proposed Rulemaking, 81 FR 51726 (Aug. 4, 2016), 156 FERC ¶ 61,045, at PP 44–48 (2016). The Commission ultimately declined to adopt this part of the rule. *See Data Collection for Analytics & Surveillance & Mkt.-Based Rate Purposes,* Order No. 860, 84 FR 36390 (July 26, 2019), 168 FERC ¶ 61,039, at P 4 & Glick dissenting at n.6 (2019). However, the Commission transferred the record to Docket No. AD19–17–000 for possible additional consideration in the future of a requirement to provide connected entity information to the Commission. *Id.* P 184.

[32] *See San Diego Gas & Elec. Co.* v. *Sellers of Energy & Ancillary Servs.,* 65 FR 67040 (Nov. 8, 2000), 93 FERC ¶ 61,121, at 61,349 (2000) (finding ''that the electric market structure and market rules . . . are seriously flawed and that these structures and rules . . . have caused, and continue to have the potential to cause, unjust and unreasonable rates . . . .''); *Ord. Establishing Refund Effective Date and Proposing to Revise Mrkt.-Based Rate Tariffs & Authorizations,* 66 FR 59241 (Nov. 27, 2001), 97 FERC ¶ 61,220, at 61,974 (2001) (instituting a proceeding under FPA section 206 ''to investigate the justness and reasonableness of the terms and conditions of market-based rate tariffs and authorizations'' in the wake of market abuses); *Investigation of Terms & Conditions of Pub. Util. Mkt.-Based Rate Authorizations,* 68 FR 40924 (July 9, 2003), 103 FERC ¶ 61,349, at P 5 (2003) (proposing to amend the requirements of market-based rate authority ''to provide clearly-delineated 'rules of the road' to market-based rate sellers while, at the same time, not impairing the Commission's ability to provide remedies for market abuses whose precise form and nature cannot be envisioned today''); *Ord. Amending Mkt.-Based Rate Tariffs & Authorizations,* 68 FR 65902 (Nov. 24, 2003), 105 FERC ¶ 61,218 (2003) (amending requirements for market-based rate authority by adding Market Behavior Rules after notice and comment).

[33] *Enron Power Mktg, Inc.,* 102 FERC ¶ 61,316, at P 8.

[34] *Ord. Amending Mkt.-Based Rate Tariffs & Authorizations,* 105 FERC ¶ 61,218 at P 107.

[35] 16 U.S.C. 824e.

[36] *Ord. Amending Pub. Util. Mkt.-Based Rate Tariffs & Authorizations,* 68 FR 65902 (Nov. 24, 2003), 105 FERC ¶ 61,218, at P 3.

[37] *Kourouma* v. *FERC,* 723 F.3d 274, 278–79 (D.C. Cir. 2013). *Kourouma* also confirmed that the regulation did not require that the communicating entity have an intent to make a false statement. *Id.*

[38] *FERC* v. *Coaltrain Energy, L.P.,* No. 2:16–cv–732, 2018 WL 7892222, at *24–27 (S.D. Ohio Mar. 30, 2018).

[39] *Id.* at *26 (citation and quotation marks omitted).

communications be accurate. For example, the truth of statements made in most filings to the Commission are limited to the signing attorney's knowledge—not the underlying truth of the statements made, or the care with which they were determined to be truthful. In many circumstances, there is no requirement that care be taken that communications to the Commission or its staff are indeed truthful (*e.g.,* in filings, during investigations, in procedural communications, and during uncontested proceedings).

22. Similarly, absent a restriction contained in a tariff provision, there may be no explicit requirement of candor for various important communications fundamental to the functioning of a market that produces just and reasonable rates: for example, communications from shippers to interstate pipelines, from transmission customers to transmission utilities, from transmission utilities to independent system operators (ISOs) or regional transmission organizations (RTOs), and from wholesale demand response participants to ISOs, RTOs, or transmission providers. Even intentional miscommunications may not be explicitly prohibited by our regulations, unless made pursuant to a violation of the Commission's Anti-Manipulation Rule under part 1c of the Commission's regulations.

## II. Discussion

23. The Commission proposes to adopt a new part 1d within title 18 of the Code of Federal Regulations to require that entities ensure the accuracy of communications related to a matter subject to the Commission's jurisdiction when communicating with the following entities: the Commission, Commission-approved market monitors, Commission-approved RTOs, Commission-approved ISOs, jurisdictional transmission or transportation providers, or the Electric Reliability Organization and its associated Regional Entities. Ensuring the accuracy of such communications will increase confidence in Commission-jurisdictional industries and markets and will improve the Commission's ability to meet its statutory responsibilities. The integrity and effectiveness of the Commission's regulatory oversight and decision-making authority rely on and require accuracy in communications to each of these entities.

24. To this end, the Commission proposes to adopt a requirement that every entity must provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission or with a range of other organizations including Commission-approved market monitors, Commission-approved RTOs and ISOs, as well as jurisdictional transmission or transportation providers, or the Electric Reliability Organization and its associated Regional Entities, where such communication relates to a matter subject to the jurisdiction of the Commission, unless the entity exercises due diligence to prevent such occurrences.

25. In the following sections, we discuss: (A) why a broad duty of candor requirement is needed to protect Commission-jurisdictional industries and markets; (B) the Commission's, Sellers', and the courts' favorable experience with application of 18 CFR 35.41(b); (C) the statutory authorities supporting the proposed rule; and (D) interpretive guidance for the proposed rule and how it will be applied.

### *A. The Need for a Broad Duty of Candor*

26. It is indisputable that communications related to matters subject to the jurisdiction of the Commission should be complete, honest, and accurate in order for the Commission to effectively carry out its regulatory responsibilities. The Commission, and equally the organizations upon which the Commission relies to carry out its statutory responsibilities, need complete, honest, and accurate information to make important policy and economic decisions affecting the fairness, competitiveness, and reliability of markets. Submission of false or misleading information, or omission of material information—whether intentionally or reckless—could lead the Commission to reach decisions that it otherwise would not have made, such as erroneously approving or denying (1) requests to construct and operate infrastructure projects, (2) applications for merger or consolidation of jurisdictional electric facilities, (3) applications for market-based rate authority, or (4) requests to revise tariff provisions. Likewise, submission of false or misleading information, or omission of material information could inhibit the Commission's ability to ensure that the rates, terms, and conditions of service of natural gas and oil pipelines and public utilities are just and reasonable and not unduly discriminatory or preferential. Similarly, it could lead the Commission or its staff to close an investigation that should continue, or to adopt policies that are ineffective. The submission of false or misleading information, or omission of material information could lead an ISO or RTO to make decisions that jeopardize competition, fairness, and reliability of electric markets, and that potentially harm market participants and cause them to lose confidence that markets are working fairly and producing results consistent with market rules and fundamentals. False information could also result in an interstate gas pipeline misallocating capacity.

27. We recognize that communications in markets as large, complex, and active as those the Commission regulates will sometimes include inadvertent errors or oversights. Identifying and punishing all mistaken communications, or expending undue resources to prevent every error, is both impractical and unnecessary.

28. We believe, therefore, that a balance must be struck between the need for accurate information and the burden of ensuring the accuracy of that information. Based on the Commission's experience with its existing regulations (especially 18 CFR 35.41(b)), we believe that a duty of candor should apply to: (1) all entities, including both organizations and individuals; (2) communications to the Commission and to certain other specified organizations that administer, participate in, or operate markets and facilities subject to the Commission's jurisdiction; and (3) communications related to a matter subject to the jurisdiction of the Commission. However, no entity should be penalized or otherwise sanctioned for inaccurate communications where due diligence has been exercised to ensure the communications' accuracy.[40] In addition, consistent with the need to exercise due diligence, it should be clear that intentional or reckless miscommunications are never permissible.

29. We believe that the duty of candor rule proposed herein will provide clarity that benefits the industries and markets the Commission regulates. If an entity communicates with the Commission or one of the other specified organizations identified in the regulation, it will know or be on notice that it must exercise due diligence in all its communications related to a matter subject to the jurisdiction of the Commission.

[40] It is the Commission's expectation that any entity providing inaccurate information would, upon discovery, provide corrections as expeditiously as possible, whether due diligence had been previously exercised or not. However, in the event such initiative were not exercised, the Commission could require that corrective actions be undertaken irrespective of whether it also pursues sanctions for a duty of candor violation.

30. Notwithstanding the potential adoption of this proposed regulation, we are not proposing to remove other duties of candor from our existing regulations. Those duties of candor and that proposed here are not inconsistent. Further, we note that the proposed rule, if adopted, would not impose a general affirmative duty of disclosure, but would apply to communications whether they are voluntary or required.[41]

31. Providing inaccurate information to entities not named in the proposed regulation is also potentially problematic and may be actionable under other statutes and regulations in certain circumstances (*e.g.,* intentional misrepresentations may form the basis for enforcement action under 18 CFR part 1c). We welcome comment on whether the scope of communications subject to the proposed duty of candor is adequate or should be expanded.

*B. 18 CFR 35.41(b) Provides a Fair Basis for a Broader Duty of Candor*

32. We propose to adopt a duty of candor rule that is based upon the existing duty of candor rule in 18 CFR 35.41(b). Since adoption of the Market Behavior Rules twenty years ago, the accuracy of communications by Sellers has improved substantially. While § 35.41(b) is likely not the only reason for this improvement, we believe that Sellers understand the regulation and generally attempt to comply with it. The Commission now has an abundance of experience and precedent applying § 35.41(b), which has been upheld in court as described above. We intend for this experience to inform the application of this proposed new rule, which is substantially similar in form and function, albeit broader in application.

33. Although the Commission's focus in adopting § 35.41(b) was Sellers with market-based rate authority, we find that the rule's underlying rationale—that the Commission cannot rely on market mechanisms to generate just and reasonable outcomes if those mechanisms have been undermined by inaccurate information—applies more broadly.

34. In fact, implicit in any Commission order is the presumption that representations made to the Commission and others are complete, accurate, and free of fraud, deception, or misrepresentation. Similarly, actions taken by market participants are taken with the understanding that the underlying information provided to them is accurate. One court described § 35.41 as aimed at ''ensur[ing] the integrity and smooth functioning of the markets.'' [42] A broader requirement imposing a duty of candor will serve the same purpose across more of our regulated industries and markets. The Commission has explained that ''[t]he integrity of the processes established by the Commission for open competitive markets rely on the openness and honesty of market participant communications.'' [43] The Commission cannot exercise its regulatory authority effectively and appropriately if entities can provide the Commission, or other organizations upon which the Commission relies, with inaccurate information with impunity.

*C. Authority for the Proposed Rule*

35. The Commission has broad statutory authority, described below, to issue rules and regulations to allow it to effectively perform its regulatory functions. This authority includes the power to require accurate communications from those who choose to engage in Commission-jurisdictional markets or who communicate to the Commission about those markets. The Commission has previously implemented specific duty of candor regulations under this broad authority and it similarly has the authority to adopt a more generally applicable duty of candor.[44]

36. The Commission has the statutory obligation under such statutes as the FPA, NGA, ICA, NGPA, and the Administrative Procedure Act to ensure that wholesale rates, and rules or practices directly affecting such rates, are just and reasonable,[45] and that its own actions are based on reasoned decision-making. Introducing incorrect or inaccurate information into the Commission's decision-making process can lead to uneconomic, unfair, unjust, unreasonable, or even dangerous outcomes regarding many areas within the Commission's jurisdictional authority, including transmission and transportation decisions, hydroelectric licensing and operations, pipeline approval and operations, electric reliability, and enforcement actions. The current patchwork of requirements is insufficient to encompass all the situations in which the Commission must be assured that it is receiving accurate communications that are necessary for it to adequately conduct its regulatory oversight.

37. The following authorities support the Commission's issuance of the proposed regulation:

- FPA 206, NGA 5, and ICA 13 and 15. As was the case with our adoption of 18 CFR 35.41, we believe that FPA 206 and the parallel provisions in the NGA and ICA provide a basis for adoption of the proposed regulation because information in our markets must be accurate to ensure that wholesale rates, and rules or practices directly affecting such rates are just and reasonable.
- FPA 307, NGA 14, and ICA 12(1)(a). Section 307 of the FPA and parallel section 14 of the NGA permit the Commission to obtain information needed to conduct investigations. Section 12(1)(a) of the ICA similarly permits the Commission to obtain information about the management and business of oil pipelines. Given the Commission's authority to obtain information, it follows that the Commission should be entitled to receive accurate information.
- FPA 309, NGA 16, NGPA 501(a), and Department of Energy Organization Act 402(a)(2) and 402(h). These sections give broad authority to the Commission to adopt regulations that are necessary or proper to effectuate its regulatory obligations. The Commission and the markets it regulates cannot function properly without the submission of accurate information.
- FPA 215. Section 215 conveys to the Commission, the Electric Reliability Organization, and Regional Entities the duties to obtain information and act upon that information. These obligations cannot be fulfilled without

[41] This clarification is similar to the clarification the Commission adopted for the candor requirements discussed in Order No. 670. *See* Order No. 670, 114 FERC ¶ 61,047 at PP 35–37, 41–42.

[42] *Kourouma,* 723 F.3d at 276.

[43] *Ord. Amending Mkt.-Based Rate Tariffs & Authorizations,* 105 FERC ¶ 61,218 at P 107.

[44] If an agency can require communications or if it acts as a gatekeeper to participation in matters subject to the agency's jurisdiction, it can require candor in communications related to those matters. *See, e.g., SEC* v. *Jensen,* 835 F.3d 1100, 1112–113 (9th Cir. 2016) (rule under Sarbanes-Oxley Act requiring corporate officers to certify financial statements includes implicit truthfulness requirement; SEC may bring enforcement action for certifying false financial statements); *U.S.* v. *Bilzerian,* 926 F.2d 1285, 1298 (2d Cir. 1991) (requirement under section 13(d)(1) of Securities Exchange Act of 1934 to file form disclosing stock ownership creates duty to file truthfully and completely; criminal penalties may be imposed for violating duty); *Completeness and Accuracy of Information,* 52 FR 49362 at 49365 (Dec. 1987) (Nuclear Regulatory Commission stating ''[i]t is inconceivable that Congress would have established the broad regulatory authority in the Atomic Energy Act, which is considered unique, and not granted sufficient authority for the Commission to require communications, regardless of the format, to be complete and accurate.'' (citation omitted)).

[45] *Elec. Power Supply Ass'n* v. *FERC,* 577 U.S. 260, 277–78 (2016).

communication of accurate information.[46]

- NGPA 311(c). Section 311(c) permits the Commission to prescribe terms and conditions to transportation authorizations under NGPA 311. One such condition can be to require that section 311 pipelines provide accurate information in their submissions to the Commission.
- ICA 1(5)(a). Transportation charges must be just and reasonable and charges based upon incorrect information are not just and reasonable.

38. We welcome comments on the Commission's authority to implement the proposed regulation.

*D. Interpretive Guidance and Application of the Proposed Rule*

39. To facilitate comment on the proposed regulation, we provide the following clarifications and expand upon some aspects of the proposed regulation. We welcome comments and requests for further clarification, as needed, on these points.[47]

40. The proposed regulation utilizes the term ''entity'' because we believe that covered communications (*i.e.,* those that relate to a matter subject to the jurisdiction of the Commission) from all types of organizations, as well as from individuals (or, where appropriate, concurrently from both), should reflect accurate and factual information, and should not reflect false or misleading information or omit material information. The term ''entity'' applies to both the entity making the communication as well as the entity responsible for the communication. Thus, if an entity relies upon a non-employee agent for the submission of a communication, the principal would not escape application of the regulation, absent a showing of due diligence.[48] Although the rule as proposed applies to all entities, we seek comment on whether there are specific types of organizations or individuals who should be exempted from the proposed regulation.

41. Further, we intend to interpret the term ''communication'' broadly, including informal and formal communications, verbal or written, and via any method that may be used for transmission. We also intend to interpret the term ''Commission'' under this provision to include communications to Commission staff. Communications to the other listed entities include communications to individuals employed or acting on behalf of those entities, including agents and contractors of the covered entities.

42. The proposed regulation applies to communications that relate to a matter subject to the jurisdiction of the Commission. Communications that are tangential or unrelated to matters subject to the jurisdiction of the Commission are not covered by the proposed regulation. For example, the proposed regulation typically would not apply to communications about contracts for general services with jurisdictional entities or employee/employer disputes within a jurisdictional entity.

43. The exercise of due diligence would be a defense to an alleged violation of the proposed regulation. The concept of due diligence is well developed in the context of duties of candor and the Commission and courts have precedent applying this defense.[49] We intend for due diligence to include all relevant facts related to whether reasonable steps were taken by the communicator(s) to ensure the accuracy and completeness of a communication in light of all of the circumstances. Many facts will bear upon consideration of a due diligence defense including, but not limited to, whether a communication had to be made without sufficient time for additional diligence to be undertaken, the importance and materiality of the communication to the recipient, the duration and consistency of the communication at issue, whether the communication was voluntary or required, whether the communication was in response to a specific request for information or was unsolicited, the size and sophistication of the communicator(s), and the communication's effect on the marketplace or the Commission's regulatory responsibilities.

44. We recognize that the best-intentioned entities may, and occasionally will, inadvertently provide inaccurate information. Even where due diligence cannot be demonstrated, it is not the Commission's intention to investigate or penalize all potential violations of the proposed regulation. As a general matter, we do not intend to penalize inadvertent errors, especially those of limited scope and impact. The Commission retains discretion not to pursue enforcement actions in such instances and will exercise that discretion, as appropriate, in implementing the proposed regulation, as the Commission does with all other Commission regulations.

## III. Information Collection Statement

45. Regulations of the Office and Management and Budget (OMB) implementing the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 through 3520) require Federal agencies to obtain approval from the OMB before conducting or sponsoring certain collections of information requirements imposed by agency rule.[50] This proposed rule would not impose any new or modified information collections. Moreover, the substance of the communications that would be affected by the proposed rule has been approved by OMB. Therefore, OMB review of this proposed rule under the PRA is not required.

## IV. Environmental Analysis

46. The Commission is required to prepare an Environmental Assessment

[46] *See Rules Concerning Certification of the Elec. Reliability Org. & Procs. for the Establishment, Approval, & Enforcement of Elec. Reliability Standards,* Order No. 672, 71 FR 8662 (Feb. 17, 2006), 114 FERC ¶ 61,104, at P 114, *order on reh'g,* Order No. 672–A, 71 FR 19814 (Apr. 18, 2006), 114 FERC ¶ 61,328 (2006) (''to fulfill its obligations under this Final Rule, the ERO or a Regional Entity will need access to certain data from users, owners and operators of the Bulk-Power System. Further, the Commission will need access to such information as is necessary to fulfill its oversight and enforcement roles under the statute''); 18 CFR 39.2(d) (''[e]ach user, owner or operator of the Bulk-Power System within the United States . . . shall provide the Commission, the Electric Reliability Organization and the applicable Regional Entity such information as is necessary to implement section 215 of the Federal Power Act'').

[47] We note that the dissent calls for comments on multiple aspects of the proposed rule. We also encourage such comments. We believe that our consideration of the proposed rule, like all notice and comment rulemakings, will be enhanced by robust comments from a wide variety of interested parties.

[48] A common example occurs in communications to the Commission where a company submits a document through its outside counsel. In such a circumstance, both the company and counsel should exercise ''due diligence'' to ensure the accuracy. Of course, due diligence for counsel in such circumstances likely will simply amount to ensuring that it has no reason to believe the falsity of the information provided. The responsible company would bear a greater burden to ensure the communication's accuracy.

[49] *See, e.g., FERC* v. *Coaltrain,* 501 F. Supp. 3d 503, 526 (S.D. Ohio 2020) (''A Seller can avoid liability for a violation if it shows it had a process to ensure the accuracy of its responses.'' (citation omitted)); *id.* at 527 (''Coaltrain can avoid liability if it shows that it conducted a reasonable investigation to make sure it produced the relevant and material information and followed a process to ensure the accuracy of its responses.''); *Kourouma,* 723 F.3d at 278 (''Contrary to Kourouma's assertion, so read, Market Behavior Rule 3 does not subject filers like Kourouma to strict liability, but reserves punishment for those who do not act with requisite care when submitting information to FERC.''); *Kourouma,* 135 FERC ¶ 61,245, at P 21 (2011) (''submission of false or incomplete information on behalf of a seller by an individual that did not personally know it to be false or incomplete in the absence of a process to insure data accuracy and sufficiency will not excuse the seller's conduct under the rule.'' (internal citations and quotations omitted)).

[50] *See* 5 CFR 1320.3(c)(4)(i).

or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[51] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that include information collection or that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[52] The actions proposed herein fall within these categorical exclusions in the Commission's regulations.

## V. Regulatory Flexibility Act Analysis

47. The Regulatory Flexibility Act of 1980 (RFA) [53] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities. The Commission intends to pose the least possible burden on all entities both large and small.

48. Although this NOPR applies to many types of entities, including small entities, the burden associated with proposed regulation should be minimal. We expect that almost all entities regularly communicate with the Commission and jurisdictional actors with accuracy and honesty. We also believe that such communications already regularly occur with due diligence exercised and, thus, there should be no new burdens associated with the proposed rule on small entities. Further, due diligence for a small entity will often be different than for an entity with more resources and the proposed regulation accommodates these differences in resources. Therefore, the proposed regulation does not appear to pose a significant change to small entities.

## VI. Comment Procedures

49. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due October 11, 2022. Comments must refer to Docket No. RM22–20–000, and must include the commenter's name, the organization they represent, if applicable, and address in their comments. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

50. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at *https://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software must be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

51. Commenters that are not able to file comments electronically may file an original of their comment by USPS mail or by courier-or other delivery services. For submission sent via USPS only, filings should be mailed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Submission of filings other than by USPS should be delivered to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

## VII. Document Availability

52. 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 (*https://www.ferc.gov*). At this time, the Commission has suspended access to the Commission's Public Reference Room due to the President's March 13, 2020 proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19).

53. 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 the Commission's 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*.

## List of Subjects in 18 CFR Part 1d

Administrative practice and procedure.

By direction of the Commission.

Commissioner Danly is dissenting with a separate statement attached.

Issued: July 28, 2022.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

In consideration of the foregoing, the Commission proposes to add part 1d to title 18 of the *Code of Federal Regulations* to read as follows:

## PART 1d—DUTY OF CANDOR

Sec.

1d.1 Accuracy of communications.

**Authority:** 42 U.S.C. 7101–7352; 5 U.S.C. Ch. 5; E.O. 12009, 42 FR 46267, 3 CFR, 1978 Comp., p. 142.

### § 1d.1 Accuracy of communications.

Any entity must provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission, Commission-approved market monitors, Commission-approved regional transmission organizations, Commission-approved independent system operators, jurisdictional transmission or transportation providers, or the Electric Reliability Organization and its associated Regional Entities, where such communication relates to a matter subject to the jurisdiction of the Commission, unless the entity exercises due diligence to prevent such occurrences.

**Note:** The following appendix will not appear in the Code of Federal Regulations.

## Appendix—Commissioner James P. Danly's Dissent

**United States of America Federal Energy Regulatory Commission**

*Duty of Candor*

Docket No. RM22–20–000 (Issued July 28, 2022)

DANLY, Commissioner, *dissenting:*

1. I dissent from this notice of proposed rulemaking seeking to extend the duty of candor—which currently applies to ''Sellers'' in electric markets [1]—to ''any entity'' in ''any communication''—or lack of communication—associated with any ''matter subject to the jurisdiction of the Commission.'' [2] This expands the duty of candor well beyond current Commission

[51] *Reguls. Implementing the Nat'l Env. Pol'y Act of 1969,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[52] 18 CFR 380.4(a)(5) and (a)(2)(ii).

[53] 5 U.S.C. 601–12.

[1] 18 CFR 35.41(b).

[2] *Duty of Candor,* 180 FERC ¶ 61,052, at proposed 1d.1 (2022) (NOPR).

practices.[3] Knowledge or intent does not matter. The materiality of the erroneous statement does not matter. The powers we propose to grant ourselves in this rulemaking are so broad and the standards so vague that, if finalized, it would be a simple proposition for the Commission to ''find'' that any factually untrue statement, regardless of context, violates the duty of candor, exposing the speaker to sanctions. And rather than establish guard rails or explicit limits to our powers, we instead say ''just trust us.'' This proposal is chillingly broad in its scope and, by its plain terms, would encompass constitutionally protected speech.

2. Much of what the Commission and our jurisdictional entities routinely do involves '' 'matter[s] of political, social, or other concern to the community' or . . . 'is a subject of general interest and of value and concern to the public.' '' [4] Speech on such matters '' 'occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection.' '' [5] Precisely because of the public import of the matters subject to its jurisdiction, the Commission, at the direction of Congress, is encouraging greater public participation in its proceedings. Unwary members of the public, taking up our offer to engage the Commission (or the listed jurisdictional entities) in a manner they would doubtless believe is civically virtuous, could—by the plain language of this rulemaking—be subject to liability. The very *possibility* of such sanctions goes well beyond a reasonable attempt to deter falsehoods and will instead chill speech at the core of the First Amendment's protections.

3. The obvious question in response is what is the harm in simply extending the existing duty of candor? Would it not seem to make sense that people should tell the truth when conducting Commission-related activities? Is it not true that no court has held the existing duty of candor unlawful? [6] The answer is that the proposed rule encompasses a far greater range of activities by a far greater number of speakers than the existing duty of candor and does so without standards of materiality or intent, or a clearly defined safe harbor to protect the unwary from liability.

4. The proposed duty of candor provides that:

Any entity must provide accurate and factual information and not submit false or misleading information, or omit material information, in any communication with the Commission, Commission-approved market monitors, Commission-approved regional transmission organizations, Commission-approved independent system operators, jurisdictional transmission or transportation providers, or the Electric Reliability Organization and its associated Regional Entities, where such communication relates to a matter subject to the jurisdiction of the Commission, unless the entity exercises due diligence to prevent such occurrences.[7]

5. So, for example, under the plain language of this provision, the Commission could find a violation of the duty of candor if a landowner (''entity'') exaggerates a complaint (''submit[s] . . . misleading information'') in an email to the pipeline developer with a right-of-way on her land (''in any communication with . . . jurisdictional transmission or transportation providers''). What if the landowner is angry about construction noise and says something like ''I've never heard such a racket,'' but in fact she had heard such a racket at a Poison concert in 1988? Absurd? Yes. Duty of candor violation? Also, yes.

6. In a recent generic proceeding, a commenter called claims made in a petition for rulemaking ''largely defamatory.'' [8] Were they? Does the Commission propose to police such accusations as enforcement matters when political opponents or, even, competitors file complaints against each other?

7. Commission enforcement of such violations may be unlikely, but the language the majority uses to reassure the public is quite alarming and amounts to ''just trust us'':

[I]t is not the Commission's *intention* to investigate or penalize all potential violations of the proposed regulation. *As a general matter,* we do not intend to penalize inadvertent errors, especially those of limited scope and impact. The Commission *retains discretion* not to pursue enforcement actions in such instances and will exercise that discretion, as appropriate, in implementing the proposed regulation, as we do with all other Commission regulations.[9]

So, are we to understand that it is the Commission's intention to penalize *not all* potential violations? *Not all* leaves a lot of potential violations. The Commission promises as a *general matter* not to prosecute inadvertent errors, but intent should be an essential element of the claim. And, when the Commission states that it ''retains discretion'' not to pursue enforcement actions, it necessarily means that the Commission also retains discretion to pursue enforcement actions. Assurances like these cannot save the proposed rule. For constitutional purposes, what matters is the text of the regulation. The Commission cannot grant itself sweeping discretionary powers and then tell the public to ''trust us.'' As the Supreme Court has put it, ''the First Amendment protects against the Government; it does not leave us at the mercy of *noblesse oblige.*'' [10]

8. In his concurrence in *Alvarez,* Justice Breyer describes the danger inherent in an unbounded authority to police false statements:

[T]he pervasiveness of false statements, made for better or for worse motives, made thoughtlessly or deliberately, made with or without accompanying harm, provides a weapon to a government broadly empowered to prosecute falsity without more. And those who are unpopular may fear that the government will use that weapon selectively . . . .[11]

9. Given the absence of limiting principles, this ''duty of candor'' risks ''broadly empowering'' the Commission to turn itself into a Ministry of Truth, policing the truth or falsity of an enormous sweep of communications. The rule is drafted so broadly that enforcement staff are likely subject to it. I am sure the subjects of investigations will appreciate this commitment to integrity.

10. Experience with the existing duty of candor suggests that promises of prosecutorial discretion are in the eye of the beholder, or in this case, the prosecutor. In practice, the Office of Enforcement frequently finds duty of candor violations when it finds any manipulative act or tariff violation. If a company is charged with violating an RTO tariff, duty of candor allegations appear almost automatic.[12]

11. There is a sad irony to this rulemaking. The actual ''candor'' of communications within the industry will suffer. Employees at one utility (''transmission organization'') will hesitate to call or email counterparts at another utility (''transmission organization'') without first seeking the advice of counsel to make sure they have done their ''due diligence'' before engaging in ''any communication.'' This will deter cooperation within the industry and is not likely to be good for anyone.

12. There remain a few obvious questions: What about penalties? The NOPR says nothing about what sanctions the Commission plans to impose for this new class of violation. Presumably, it will be left to the Commission's discretion under its penalty guidelines [13] or on a ''case-by-case''

[3] *See Prohibition of Energy Mkt. Manipulation,* Order No. 670, 114 FERC ¶ 61,047, at P 49, *reh'g denied,* 114 FERC ¶ 61,300 (2006).

[4] *Snyder* v. *Phelps,* 562 U.S. 443, 453 (2011) (quoting *Connick* v. *Myers,* 461 U.S. 138, 146 (1983); *San Diego* v. *Roe,* 543 U.S. 77, 83–84 (2004)).

[5] *Id.* at 452 (quoting *Connick* v. *Myers,* 461 U.S. at 145).

[6] In *Kourouma* v. *FERC,* the court dismissed a vagueness challenge to Market Behavior Rule 3, which the court characterizes as ''reserv[ing] punishment for those who do not act with requisite care when submitting information to FERC.'' 723 F.3d 274, 278 (D.C. Cir. 2013). The current rule, however, is distinguishable because of its much broader scope. It applies to ''any entity,'' *i.e.,* any member of the public who engages in a FERC-related communication with a covered entity, and not just ''sellers,'' who could be presumed to be relatively sophisticated actors, and applies far beyond the scope of sharing information with FERC in required filings. It is at least reasonable to put the onus on sellers to engage in ''due diligence,'' when communicating with the Commission. The Commission cannot, therefore, assume a similar result should this rule, as broadly drafted as it is, be reviewed in the courts.

[7] NOPR, 180 FERC ¶ 61,052 at proposed § 1d.1.

[8] American Gas Association, Protest, Docket No. RM21–15–000, at 9 (Apr. 26, 2021).

[9] NOPR, 180 FERC ¶ 61,052 at P 44 (emphasis added).

[10] *United States* v. *Stevens,* 559 U.S. 460, 480 (2010).

[11] *United States* v. *Alvarez,* 567 U.S. 709, 734 (2012) (Breyer, J., concurring in the judgement).

[12] *See, e.g., NRG Power Mktg. LLC,* 174 FERC ¶ 61,016 (2021) (finding tariff violation and duty of candor violation arising out of same bidding behavior); *see also id.* (Danly, Comm'r, dissenting) (opposing settlement in circumstances where target company has little leverage or likelihood of success against the Office of Enforcement in FERC-administered proceedings).

[13] *See Enforcement of Statutes, Orders, Rules, & Regs.,* 132 FERC ¶ 61,216 (2010); *Enforcement of Statutes, Regs. & Orders,* 123 FERC ¶ 61,156 (2008).

basis as it often is with the existing duty of candor, at least when other violations are involved.[14]

13. As usual, I strongly encourage anyone with the inclination or an interest in this proceeding to comment on the issues it raises.

14. In particular, I ask for comments on the fundamental question whether the proposed duty of candor creates Constitutional due process concerns because it is impermissibly vague. What conduct, exactly, is prohibited? Is there any way to cure the void-for-vagueness concerns?

15. How would a ''due diligence'' safe harbor work for members of the public, like the concert-going landowner who, in her communications with one of the listed entities, may be ''prone to hyperbole''? Will the proposal chill public engagement with FERC and the listed jurisdictional entities? Should the Office of Public Participation offer sessions on how to qualify for the safe harbor when members of the public engage with RTOs and Utilities? I particularly encourage consumer advocates to comment on what the implications of this rule might be.

16. Further, does the Commission have the statutory authority to extend the duty of candor as far as proposed? Does the Commission's interest in protecting the integrity of its proceedings really extend to ''any entity'' in ''any communication'' ''relate[d] to a matter subject to the jurisdiction of the Commission'' with the rule's range of listed entities?

17. It may be possible to narrow the proposed duty of candor so that it would not grant the Commission such sweeping enforcement powers. I solicit comment on whether an intent or materiality requirement would allay concerns that the rule will impermissibly encompass core First Amendment protected speech.

18. Another irony: the Commission may be unlikely to get much candor from the regulated community in response to this NOPR. Most companies will be reticent to file comments in opposition to a proposed rule of candor. But voicing opposition to an impermissibly vague and broad rule that exposes a company to sweeping liability does not mean that the company supports lying to the Commission. They should not be hesitant. I strongly encourage industry comments and would be particularly interested in any experience with the application of the current duty of candor to the extent any entity is at liberty to discuss them. I also welcome a thorough analysis of our existing caselaw to fully judge how the existing duty of candor has been applied.

19. I look forward to reviewing the full record. My hope is that it will be sufficient to persuade the majority not to finalize this rule. We do not need rules for everything, especially when they are as problematically vague and broad as the proposal here.

[14] *See, e.g., Coaltrain Energy, L.P.,* 155 FERC ¶ 61,204, at P 292 (2016).

For these reasons, I respectfully dissent.

**James P. Danly,**

*Commissioner.*

[FR Doc. 2022–16608 Filed 8–11–22; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 117

**[Docket No. USCG–2022–0299]**

**RIN 1625–AA09**

## Drawbridge Operation Regulation; Bay St. Louis, Bay St. Louis, MS

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Coast Guard proposes to change how the CSX Transportation railroad drawbridge across Bay St. Louis, mile 0.5, Bay St. Louis, MS will operate. The bridge will continue to open according to the drawbridge regulations but the bridge tender will operate this bridge from a remote location at the CSX railroad terminal in Mobile, Alabama. We invite your comments on this proposed rulemaking.

**DATES:** Comments and relate material must reach the Coast Guard on or before October 11, 2022.

**ADDRESSES:** You may submit comments identified by docket number USCG–2022–0299 using Federal Decision Making Portal at *https://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this proposed rule, call or email Douglas Blakemore, Eighth Coast Guard District Bridge Administration Branch Chief at (504) 671–2128 or *Douglas.A.Blakemore@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

### I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking (Advance, Supplemental)
§ Section
U.S.C. United States Code

### II. Background, Purpose and Legal Basis

The CSX Transportation railroad drawbridge crosses Bay St. Louis, mile 0.5, Bay St. Louis, MS. The bridge will continue to open according to the drawbridge regulations but the bridge tender will operate this bridge from a remote location at the CSX railroad terminal in Mobile, AL. This bridge has a 13 foot vertical clearance at mean high water, an unlimited vertical clearance in the open to vessel position and a 100′ horizontal clearance. The bridge operates according to 33 CFR 117.5.

CSX Transportation has requested to operate this bridge remotely from their railroad terminal in Mobile, AL. A copy of the bridge owners request can be found at *https://regulations.gov* in the Docket USCG–2022–2099. CSX has installed a remote operation system at the bridge and a remote control center, located in Mobile, AL. At the bridge, CSX has installed infrared cameras, closed circuit cameras and TVs, communication systems and information technology systems on the bridge that allow an operator from Mobile to monitor and control the bridge.

This NPRM will run simultaneously with a Test Deviation; under the same name and docket number. Both documents can be found at *https://www.regulations.gov* and comments can be to either document.

This CSX drawbridge is located on Bay St. Louis, mile 0.5, Bay St. Louis, MS. It has a vertical clearance of 13′ in the closed to vessel position. The bridge operates according to 33 CFR 117.5. Bay St. Louis is used by commercial tows, barges and recreational vessel. The bridge opens for vessels about six times per day and vessels that do not need the bridge to open may pass.

### III. Discussion of Proposed Rule

33 CFR 117.42 sets Coast Guard drawbridge regulations. This regulation authorizes the Coast Guard District Commander to approve operations from a remote site. The bridge opens on signal for the passage of vessels in accordance with 33 CFR 117.5. This proposed rule will not change the operating schedule nor will it change how to request or signal for the bridge to open. Mariners requiring an opening may do so by contacting the CSX remote control center on Channels 13/16 or by the phone number posted at the bridge.

This proposed rule requires CSX to have the capability, including resources and manpower to return the operator to the bridge location following any of the below situations:

(1) Any component of the remote operations system fails and prevents the remote operator from being able to visually identify vessels, communicate with vessels, detect vessels immediately underneath the bridge or visually identify trains approaching the bridge.

(2) CSX fails to meet Federal Railway Administration (FRA) or any other government agency safety requirements; and.

(3) At the direction of the District Commander

## IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on these statutes and Executive Orders.

### *A. Regulatory Planning and Review*

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

This regulatory action determination is based on the ability that vessels can still transit the bridge given advanced notice.

### *B. Impact on Small Entities*

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

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

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

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

### *C. Collection of Information*

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### *D. Federalism and Indian Tribal Governments*

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

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

### *E. Unfunded Mandates Reform Act*

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

### *F. Environment*

We have analyzed this rulemaking under Department of Homeland Security Management Directive 023–01, Rev.1, associated implementing instructions, and Environmental Planning Policy COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). The Coast Guard has determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule promulgates the operating regulations or procedures for drawbridges. Normally such actions are categorically excluded from further review, under paragraph L49, of Chapter 3, Table 3–1 of the U.S. Coast Guard Environmental Planning Implementation Procedures.

Neither a Record of Environmental Consideration nor a Memorandum for the Record are required for this rulemaking. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

## V. Public Participation and Request for Comments

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

*Submitting comments.* We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2022–0299 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

*Viewing material in docket.* To view documents mentioned in this proposed

rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published of any posting or updates to the docket.

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

**List of Subjects in 33 CFR Part 117**

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05–1; DHS Delegation No. 0170.1.

■ 2. Add § 117.676 to read as follows:

**§ 117.676 Bay St. Louis.**

(a) The draw of the CSX Transportation Railroad bridge, mile 0.5 Bay St. Louis, MS shall be remotely operated by the bridge tender at CSX's bridge remote control center in Mobile, Alabama and shall open promptly and fully when signaled to open. Vessels can contact the CSX bridge tender via VHF–FM channel 13 or 16 or by telephone at the number displayed on the signs posted at the bridge to request an opening of the draw.

(b) CSX will return the tender to the bridge location within 3 hours following any of the below situations:

(1) Any component of the remote operations system fails and prevents the remote operator from being able to visually identify vessels, communicate with vessels, detect vessels immediately underneath the bridge or visually identify trains approaching the bridge;

(2) CSX fails to meet Federal Railway Administration (FRA) or any other government agency safety requirements;

(3) Anytime at the direction of the District Commander.

Dated: August 5, 2022.

**R.V. Timme,**

*Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.*

[FR Doc. 2022–17400 Filed 8–11–22; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 60 and 63

**[EPA–HQ–OAR–2020–0371; FRL–8202–03–OAR]**

**RIN 2060–AU97**

## National Emission Standards for Hazardous Air Pollutants: Gasoline Distribution Technology Review and Standards of Performance for Bulk Gasoline Terminals Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; notice of data availability; request for comment; extending the comment period.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is issuing a notice of data availability (NODA) and extending the comment period for proposed amendments to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Gasoline Distribution facilities and the Standards of Performance for Bulk Gasoline Terminals and proposed New Source Performance Standards (NSPS). The original proposed rule was published on June 10, 2022, with a 60-day public comment period closing August 9, 2022. With this notification, EPA is extending the public comment period for an additional 30 days, until September 12, 2022.

**DATES:** The comment period for the proposed rule published June 10, 2022, at 87 FR 35608, is extended. Comments should be received by September 12, 2022.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2020–0371. Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of June 10, 2022 (87 FR 35608) for the submission of comments.

**FOR FURTHER INFORMATION CONTACT:** Mr. Neil Feinberg, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2214; fax number: (919) 541–0516; and email address: *feinberg.stephen@epa.gov.* For more information on this action please visit *https://www.epa.gov/stationary-sources-air-pollution/gasoline-distribution-mact-and-gact-national-emission-standards.*

**SUPPLEMENTARY INFORMATION:** The source categories subject to the June 10, 2022, proposal are Gasoline Distribution regulated under 40 CFR part 63, subparts R and BBBBBB and Petroleum Transportation and Marketing regulated under 40 CFR part 60, subpart XX. The EPA proposed revised requirements for loading operations, storage vessels and equipment leaks at bulk gasoline terminals and pipeline breakout stations at major sources of hazardous air pollutant emissions under the NESHAP for the major source gasoline distribution facilities (part 63, subpart R). The EPA also proposed revised requirements for loading operations, storage vessels and equipment leaks at area source bulk gasoline terminals, bulk gasoline plants, pipeline breakout stations, and pipeline pumping stations under the NESHAP for the area source gasoline distribution facilities (part 63, subpart BBBBBB). The sources affected by the proposed NSPS (part 60, subpart XXa) are loading operations and equipment leaks at bulk gasoline terminals that commenced construction or modification after June 10, 2022; emissions from storage vessels are covered under a separate NSPS (part 60, subpart Kb), which was not proposed to be amended.

On July 25, 2022, Our Children's Earth Foundation (''OCE'') requested an extension of the comment deadline for 30 to 45 days to review the proposed rules and supporting information included in the docket. OCE outlined several instances where they believed information appeared to be missing in the rulemaking docket. The EPA reviewed the rulemaking docket and concluded that, in most cases, the docket record was complete. However, we realized that we inadvertently omitted enforcement reports relied on for the proposed lower explosive limits (LEL) monitoring requirements included for internal floating roof storage vessels in that major and area source NESHAP. Following this request from OCE, EPA has decided to provide this notice of data availability (NODA) and comment period reopening to provide to notice and time for commenters to fully review the proposed rulemaking, including the additional information on LEL

enforcement records that have been added to the docket after June 10, 2022. The comment period is being extended for 30 days, from August 12, 2022 to September 12, 2022.

**Penny Lassiter,**

*Director, Sector Policies and Programs Division.*

[FR Doc. 2022–17282 Filed 8–11–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

**[EPA–HQ–OAR–2002–0049; FRL–8150–04–OAR]**

**RIN 2060–AU96**

### Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After 10/21/74 & On or Before 8/17/83; Standards of Performance for Steel Plants: Electric Arc Furnaces & Argon-Oxygen Decarburization Constructed After 8/17/83; Extension of Comment Period; Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule; correction.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) published a document in the **Federal Register** of July 13, 2022, extending the comment period for the Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After 10/21/74 & On or Before 8/17/83; Standards of Performance for Steel Plants: Electric Arc Furnaces & Argon-Oxygen Decarburization Constructed After 8/17/83 proposed rule; amendments action. The document contained incorrect dates.

**DATES:** The public comment period for the proposed rule published in the **Federal Register** on May 16, 2022 (87 FR 29710), originally ending July 15, 2022, is being extended by 31 days. Written comments must be received on or before August 15, 2022.

**FOR FURTHER INFORMATION CONTACT:** For questions about this action, contact Donna Lee Jones, Metals and Inorganic Chemicals Group, Sector Policies and Programs Division (D243–02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–5251 fax number: (919) 541–3207 email address: *Jones.DonnaLee@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**Correction**

In the **Federal Register** of July 13, 2022, in FR Doc. 2022–14897, on page 41639, the following corrections are made:

1. On page 41639, in the second column, correct the **SUMMARY** to read: **SUMMARY:** On May 16, 2022, the U.S. Environmental Protection Agency (EPA) proposed a rule titled ''Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After 10/21/74 & On or Before 8/17/83; Standards of Performance for Steel Plants: Electric Arc Furnaces & Argon-Oxygen Decarburization Constructed After 8/17/83.'' The EPA is extending the comment period on this proposed rule that currently closes on July 15, 2022, by 31 days. The comment period will now remain open until August 15, 2022, to allow additional time for stakeholders to review and comment on the proposal.

2. On page 41639, in the second column, correct the **DATES** caption to read: **DATES:** The public comment period for the proposed rule published in the **Federal Register** on May 16, 2022 (87 FR 29710), originally ending July 15, 2022, is being extended by 31 days. Written comments must be received on or before August 15, 2022.

3. On page 41639, in the third column, in the **SUPPLEMENTARY INFORMATION** caption, correct the ''Rationale'' to read: **SUPPLEMENTARY INFORMATION:**

*Rationale.* Based on consideration of requests received from environmental organizations (GASP (AL), GASP (PA), Fairfield Environmental Justice Alliance, and California Communities Against Toxics) and industry (Steel Manufacturers Association, American Iron and Steel Institute, and Specialty Steel Industry of North America), the EPA is extending the public comment period for an additional 31 days. Therefore, the public comment period will end on August 15, 2022.

**Penny Lassiter,**

*Director, Sector Policies and Programs Division.*

[FR Doc. 2022–17365 Filed 8–11–22; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**RIN 0648–BL43**

### Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Amendment 22 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan

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

**ACTION:** Notice of availability of proposed fishery management plan amendment; request for comments.

**SUMMARY:** The Mid-Atlantic Fishery Management Council has submitted Amendment 22 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan to NMFS. Amendment 22 proposes revisions to the summer flounder, scup, and black sea bass commercial and recreational allocation percentages. This action would also add the option for future modifications to the commercial/recreational allocation and transfer provisions to be considered through a framework action. Amendment 22 is intended to address the allocation-related impacts of the revised recreational catch and landings data provided by the Marine Recreational Information Program.

**DATES:** Public comments must be received on or before October 11, 2022.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2022–0079, by the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter NOAA–NMFS–2022–0079 in the Search box. Click on the ''Comment'' icon, complete the required fields, and enter or attach your comments.

*Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or

otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Copies of Amendment 22, including the Environmental Assessment, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared in support of this action are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. The supporting documents are also accessible via the internet at: *https://www.mafmc.org/actions/sfsbsb-allocation-amendment.*

**FOR FURTHER INFORMATION CONTACT:** Emily Keiley, Fishery Policy Analyst, (978) 281–9116, or email: *Emily.Keiley@noaa.gov.*

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act requires that each Regional Fishery Management Council transmit any amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment and associated regulations deemed necessary by the Council to implement the amendment, immediately publish notification in the **Federal Register** that the amendment is available for public review and comment. The Mid-Atlantic Fishery Management Council transmitted its final version of Amendment 22 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan to NMFS for review on June 24, 2022. On July 19, 2022, the Council submitted Amendment 22 proposed rule regulations they deemed to be necessary and appropriate as specified in section 303(c) of the Magnuson-Stevens Act.

## Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage the summer flounder, scup, and black sea bass fisheries. The Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP) outlines the allocation of quota, for each species, between the commercial and recreational fisheries. This joint amendment reevaluates and proposes to revise the commercial and recreational sector allocations in the Summer Flounder, Scup, and Black Sea Bass FMP. This action was initiated in part to address the allocation-related impacts of the revised recreational catch and landings data provided by the Marine Recreational Information Program (MRIP). Specifically, this amendment considers:

1. Modifying the current allocations between the commercial and recreational sectors for summer flounder, scup, and black sea bass;
2. Adding an option to transfer a portion of the allowable landings each year between the commercial and recreational sectors, in either direction, based on the needs of each sector; and
3. Adding the option for future additional modifications to the commercial/recreational allocation and/or transfer provisions to be considered through an FMP addendum/framework action, as opposed to an amendment.

## Proposed Commercial/Recreational Allocations

Amendment 22 would change the commercial and recreational allocations for summer flounder, scup, and black sea bass. The current commercial and recreational allocations for all three species were set in the mid-1990s based on historical proportions of landings (for summer flounder and black sea bass) and catch (for scup) from each sector. Recent changes in how recreational catch is estimated by MRIP resulted in a revised time series of recreational data going back to the 1980s. This created a mismatch between the data that were used to set the allocations and the data currently used in management for setting catch limits. Changes to commercial catch data have also been made since the allocations were established. The allocation changes proposed in this amendment seek to ensure that the best available data is used to determine commercial and recreational sector allocations.

Amendment 22 includes a range of allocation alternatives, with options that would have maintained the current allocations and a variety of options to revise the allocations based on updated data using the same or modified ''base years'' (the time periods used to set the current allocations). The Council and Board ultimately voted to revise the allocations using the original base years updated with new data. This approach allows for consideration of fishery characteristics in years prior to influence by the commercial/recreational allocations, while also using the best scientific information available to understand the fisheries in those base years.

For all three species, these changes result in a shift in allocation from the commercial to the recreational sector. However, because the summer flounder and black sea bass fisheries will be transitioning from landings-based to catch-based allocations, the current and revised allocations for those species are not directly comparable. The proposed commercial and recreational sector allocations are shown in Table 1.

TABLE 1—PROPOSED COMMERCIAL/RECREATIONAL ALLOCATIONS

| Species | Commercial allocation percentage (percent) | Recreational allocation percentage (percent) |
|---|---|---|
| Summer Flounder | 55 | 45 |
| Scup | 65 | 35 |
| Black Sea Bass | 45 | 55 |

The Council and Board considered, but did not recommend, an option to ''phase in'' the allocation changes over a period of time. A phase-in period was deemed unnecessary given the relatively small magnitude of allocation changes.

## Revised Framework Provisions

The Council and Board also approved an option to allow future changes to commercial/recreational allocations, annual quota transfers, and other measures addressed in the amendment to be made through framework actions.

They also considered, but did not recommend, an option to allow transfers of annual quota between the commercial and recreational sectors at this time.

## Public Comment Instructions

The Magnuson-Stevens Fishery Conservation and Management Act allows us to approve, partially approve, or disapprove measures recommended by the Council in an amendment based on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. As such, we are seeking comment on whether measures in the Commercial/Recreational Allocation Amendment are consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. Public comments on this amendment and its incorporated documents may be submitted through the end of the comment period stated in this notification of availability.

A proposed rule to implement the amendment, including draft regulatory text, will also be published in the **Federal Register** for public comment. Public comments on the proposed rule received before the end of the comment period provided in this notification of availability will be considered in the approval/disapproval decision on the

amendment. All comments received by October 11, 2022, whether specifically directed to the Commercial/Recreational Allocation Amendment or the proposed rule for this amendment, will be considered in the approval/disapproval decision on the Commercial/Recreational Allocation Amendment.

Comments received after that date will not be considered in the decision to approve or disapprove the amendment.

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

Dated: August 8, 2022.

**Kelly Denit,**

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

[FR Doc. 2022–17315 Filed 8–11–22; 8:45 am]

**BILLING CODE 3510–22–P**

# Notices

Federal Register
Vol. 87, No. 155
Friday, August 12, 2022

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by September 12, 2022will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**Food and Nutrition Service**

*Title:* Federal Collection Methods for Supplemental Nutrition Assistance Program Recipient.

*OMB Control Number:* 0584–0446.

*Summary of Collection:* Section 13(b) of the Food and Nutrition Act of 2008 (The Act) and Supplemental Nutrition Assistance Program (SNAP) regulations at 7 CFR 273.18 require State agencies to refer delinquent debtors for SNAP benefit over-issuance to the U.S. Department of Treasury for collection. The Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. 3701, *et seq.,* requires these debts to be referred to Treasury for collection when they are 180 days or more delinquent. Through the Treasury Offset Program (TOP), 31 CFR part 285, payments such as Federal income tax refunds, Federal salaries and other Federal payments payable to these delinquent debtors will be offset and the amount applied to the delinquent debt.

*Need and Use of the Information:* The information collected is used by individuals or households to obtain due process before debts are referred to TOP for offset. State agencies will use the collected information to provide due process to individuals/households; to add and maintain debts in TOP; to request addresses; and to certify to Treasury the accuracy and legality of debts that are submitted to TOP. Without the information, compliance with the DCIA would not be possible and departmental participation in TOP would be jeopardized.

*Description of Respondents:* 53 State, Local, or Tribal Government; 272,161 Individual or households.

*Number of Respondents:* 272,214.

*Frequency of Responses:* Recordkeeping; Reporting: On occasion; Annually.

*Total Burden Hours:* 48,789.

**Ruth Brown,**

*Departmental Information Collection Clearance Officer.*

[FR Doc. 2022–17363 Filed 8–11–22; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Trinity County Resource Advisory Committee

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Notice of meeting.

**SUMMARY:** The Trinity County Resource Advisory Committee (RAC) will hold two public meetings in September 2022 according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as make recommendations on recreation fee proposals for sites on the Shasta Trinity National Forest, consistent with the Federal Lands Recreation Enhancement Act. General information and meeting details can be found at the following website: *https://www.fs.usda.gov/main/stnf/workingtogether/advisorycommittees.*

**DATES:** The meetings will be held on the following dates/times:

- September 12, 2022, 4:30 p.m.–6:30 p.m., Pacific Daylight Time; and
- September 19, 2022, 4:30 p.m.–6:30 p.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

**ADDRESSES:** The meetings are open to the public and will be held virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

**FOR FURTHER INFORMATION CONTACT:** Monique Rea, RAC Coordinator, by phone at 916–580–5651 or via email at *monique.rea@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** The meeting agenda will include:

1. Roll call;
2. Comments from the Designated Federal Official (DFO);
3. Review, discuss and approve minutes from previous RAC Meeting;
4. Review, disscuss, and vote on project proposals;
5. RAC Funding;
6. Public comment period; and
7. Closing comments from the DFO.

The meetings are open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda for a particular meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Monique Rea, RAC Coordinator, 360 Main Street, Weaverville, California 96093; or by email to *monique.rea@usda.gov.*

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: August 8, 2022.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2022–17328 Filed 8–11–22; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Shasta County Resource Advisory Committee

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Notice of meeting.

**SUMMARY:** The Shasta County Resource Advisory Committee (RAC) will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as make recommendations on recreation fee proposals for sites on the Shasta-Trinity National Forest within Trinity County, consistent with the Federal Lands Recreation Enhancement Act. RAC information and virtual meeting information can be found at the following website: *https://www.fs.usda.gov/main/stnf/workingtogether/advisorycommittees.*

**DATES:** The virtual meeting will be held on August 24, 2022, 9:30 a.m.–11:30 a.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

**ADDRESSES:** The meeting is open to the public and will be held virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

**FOR FURTHER INFORMATION CONTACT:** Monique Rea, RAC Coordinator, by phone at 916–580–5651 or via email *at monique.rea@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours per day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** The meeting agenda will include:

1. Roll call;
2. Comments from the Designated Federal Official (DFO
3. RAC project updates;
4. Funding;
5. Discuss, recommend, approve projects;
6. Public comment period; and
7. Closing comments from the DFO.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing at least three days prior to the meeting date, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Monique Rea, RAC Coordinator, 360 Main Street, Weaverville, California 96093; or by email to *monique.rea@usda.gov.*

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET

Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: August 8, 2022.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2022–17330 Filed 8–11–22; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Missouri River Resource Advisory Committee

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Notice of meeting.

**SUMMARY:** The Missouri River Resource Advisory Committee (RAC) will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as make recommendations on recreation fee proposals for sites on the Helena-Lewis and Clark National Forest, consistent with the Federal Lands Recreation Enhancement Act. General information and meeting details can be found at the following website: *Helena-Lewis and Clark National Forest—Advisory Committees (usda.gov).*

**DATES:** The meeting will be held on September 8, 2022, 7:00 p.m.–8:00 p.m., Mountain Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting is open to the public and will be held virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

**FOR FURTHER INFORMATION CONTACT:** Molly Ryan, Designated Federal Officer (DFO), by phone at 406–949–9766 or email at *molly.ryan@usda.gov* or Elizabeth Casselli, RAC Coordinator at 406–217–1615 or email at *elizabeth.casselli@usda.gov*.

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** The meeting agenda will include:

1. Review recreation fee proposal for Ear Mountain Cabin;
2. Review member status/reappointment logistics;
3. Approve meeting minutes;
4. Schedule the next meeting; and
5. Review slideshow of completed projects that have benefited from Title II funds the Missouri River RAC has allocated.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing at least three days prior to the meeting date to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Elizabeth Casselli, 1220 38th Street North, Great Falls, MT 59405; or by email to *elizabeth.casselli@usda.gov*. Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: August 8, 2022.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2022–17331 Filed 8–11–22; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Trinity County Resource Advisory Committee

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Notice of meeting.

**SUMMARY:** The Trinity County Resource Advisory Committee (RAC) will hold a public meeting according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve

collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as make recommendations on recreation fee proposals for sites on the Shasta-Trinity National Forest within Trinity County, consistent with the Federal Lands Recreation Enhancement Act. RAC information and virtual meeting information can be found at the following website: *https://www.fs.usda.gov/main/stnf/workingtogether/advisorycommittees.*

**DATES:** The meeting will be held on August 22, 2022, 4:30 p.m.–6:30 p.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting is open to the public and will be held virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Weaverville Ranger Station. Please call ahead at 530–623–2121 to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Monique Rea, RAC Coordinator, by phone at 916–580–5651 or via email at *monique.rea@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours per day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** The meeting agenda will include:

1. Roll call;
2. Comments from the Designated Federal Official (DFO);
3. Approve minutes from last meeting;
4. Discuss, recommend, approve projects;
5. Public comment period; and
6. Closing comments from the DFO.

The meeting is open to the public. The agenda will include time for individuals to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing at least 3 days prior to the meeting date, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Monique Rea, RAC Coordinator, 360 Main Street, Weaverville, California 96093; or by email to *monique.rea@usda.gov.*

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: August 8, 2022.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2022–17327 Filed 8–11–22; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Secure Rural Schools Resource Advisory Committees

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Solicitation of nominations for members.

**SUMMARY:** The Forest Service, The United States Department of Agriculture (USDA) is seeking nominations for the Secure Rural School Resource Advisory Committees (SRS RACs) pursuant the Secure Rural Schools and Community Self-Determination Act (the Act) and the Federal Advisory Committee Act (FACA). Additional information on the SRS RACs can be found by visiting the SRS RACs website at: *https://www.fs.usda.gov/working-with-us/secure-rural-schools.*

**DATES:** Written nominations must be received November 10, 2022. A completed application packet includes the nominee's name, resume, and completed *AD–755 Form* (Advisory Committee or Research and Promotion Background Information). All completed application packets must be sent to the addresses below.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** under *Nomination and Application Information* for the address of the SRS RAC Regional Coordinators accepting nominations.

**FOR FURTHER INFORMATION CONTACT:** Brianna Gallegos, National Partnership Coordinator, National Partnership Office, USDA Forest Service, Yates Building, 1400 Independence Avenue, Mailstop #1158, Washington, DC 20250 or by email to *SM.FS.SRSInbox@usda.gov.* Individuals who use telecommunication devices for the deaf and hard-of-hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 between 8:00 a.m. and 5:00 p.m., 24 hours per day, every day of the week, including holidays.

**SUPPLEMENTARY INFORMATION:**

#### Background

In accordance with the provisions of FACA, the Secretary of Agriculture is seeking nominations for the purpose of improving collaborative relationships among people who use and care for National Forests and provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II. The duties of SRS RACs include monitoring projects, advising the Secretary on the progress and results of monitoring efforts, and making recommendations to the Forest Service for any appropriate changes or adjustments to the projects being monitored by the SRS RACs.

#### SRS RACs Membership

The SRS RACs will be comprised of 15 members approved by the Secretary of Agriculture (or designee) where each will serve a 4-year term. SRS RACs memberships will be balanced in terms of the points of view represented and

functions to be performed. The SRS RACs shall include representation from the following interest areas:

(1) Five persons who represent:

(a) Organized Labor or Non-Timber Forest Product Harvester Groups;

(b) Developed Outdoor Recreation, Off-Highway Vehicle Users, or Commercial Recreation Activities;

(c) Energy and Mineral Development, or Commercial or Recreational Fishing Groups;

(d) Commercial Timber Industry; and

(e) Federal Grazing Permit or Other Land Use Permit Holders, or Representative of Non-Industrial Private Forest Land Owners, within the area for which the committee is organized.

(2) Five persons who represent:

(a) Nationally or Regionally Recognized Environmental Organizations;

(b) Regionally or Locally Recognized Environmental Organizations;

(c) Dispersed Recreational Activities;

(d) Archaeology and History; and

(e) Nationally or Regionally Recognized Wild Horse and Burro Interest, Wildlife Hunting Organizations, or Watershed Associations.

(3) Five persons who represent:

(a) State Elected Office holder;

(b) County or Local Elected Office holder;

(c) American Indian Tribes within or adjacent to the area for which the committee is organized;

(d) Area School Officials or Teachers; and

(e) Affected Public-at-Large.

If a vacancy arises, the Designated Federal Officer (DFO) may consider recommending to the Secretary (or designee) to fill the vacancy as soon as it occurs with a candidate from the applicant pool provided an appropriate candidate is available. In accordance with the Act, members of the SRS RAC shall serve without compensation. SRS RAC members and replacements may be allowed travel expenses and per diem for attendance at committee meetings, subject to approval of the DFO responsible for administrative support to the SRS RAC.

**Nomination and Application Information**

The appointment of members to the SRS RACs will be made by the Secretary of Agriculture (or designee).

The public is invited to submit nominations for membership on the SRS RACs, either as a self-nomination or a nomination of any qualified and interested person. Any individual or organization may nominate one or more qualified persons to represent the interest areas listed above. To be considered for membership, nominees must:

1. Be a resident of the State in which the SRS RAC has jurisdiction;

2. Identify what interest group they would represent and how they are qualified to represent that interest group;

3. Provide a cover letter stating why they want to serve on the SRS RAC and what they can contribute;

4. Provide a resume showing their past experience in working successfully as part of a group working on forest management activities;

5. Complete *Form AD–755,* Advisory Committee or Research and Promotion Background Information. The *Form AD–755* may be obtained from the Regional Coordinators listed below or from the following SRS RACs website: *https://cms.fs.usda.gov/working-with-us/secure-rural-schools/title-2*. All nominations will be vetted by the Agency.

Nominations and completed applications for SRS RACs should be sent to the appropriate Forest Service Regional Offices listed below:

**Northern Regional Office—Region I**

*Central Montana RAC, Flathead RAC, Gallatin RAC, Idaho Panhandle RAC, Lincoln RAC, Mineral County RAC, Missoula RAC, Missouri River RAC, North Central Idaho RAC, Ravalli RAC, Sanders RAC, Southern Montana RAC, Southwest Montana RAC, Tri-County RAC*

Jeffery Miller, Northern Regional Coordinator, Forest Service, 26 Fort Missoula Road, Missoula, Montana 59804, (406) 329–3576.

**Rocky Mountain Regional Office—Region II**

*Black Hills RAC and Greater Rocky Mountain RAC*

Jace Ratzlaff, Rocky Mountain Regional Coordinator, Forest Service, 1617 Cole Blvd., Building 17, Lakewood, Colorado 80401, (719) 469–1254.

**Southwestern Regional Office—Region III**

*Coconino County RAC, Eastern Arizona RAC, Northern New Mexico RAC, Southern Arizona RAC, Southern New Mexico RAC, Yavapai RAC*

Jonathan Word, Southwestern Regional Coordinator, Forest Service, 333 Broadway SE, Albuquerque, New Mexico 87102, (505) 842–3241.

**Intermountain Regional Office—Region IV**

*Alpine RAC, Bridger-Teton RAC, Central Idaho RAC, Dixie RAC, Eastern Idaho RAC, Fishlake RAC, Lyon-Mineral RAC, Manti-La Sal RAC, Northern Utah, South Central Idaho RAC, Southwest Idaho RAC, Rural Nevada RAC*

Don Jaques, Intermountain Regional Coordinator (Idaho/Utah/Nevada), Forest Service, 355 North Vernal Avenue, Vernal, UT 84078 (435) 781–5119.

**Pacific Southwest Regional Office—Region V**

*Butte County RAC, Del Norte County RAC, El Dorado County RAC, Fresno County RAC, Glenn and Colusa Counties RAC, Humboldt County RAC, Kern and Tulare Counties RAC, Lassen County RAC, Mendo-Lake County RAC, Modoc County RAC, Nevada and Placer Counties RAC, Plumas County RAC, Shasta County RAC, Sierra County RAC, Siskiyou County RAC, Tehama RAC, Trinity County RAC, Tuolumne and Mariposa Counties RAC*

Paul Wade, Pacific Southwest Regional Coordinator, Forest Service, 1323 Club Drive, Vallejo, California 94592, (707) 562–9010.

**Pacific Northwest Regional Office—Region VI**

*Columbia County RAC, Colville RAC, Deschutes and Ochoco RAC, Fremont and Winema RAC, Hood and Willamette RAC, Gifford Pinchot RAC, North Mt. Baker-Snoqualmie RAC, Northeast Oregon Forests RAC, Olympic Peninsula RAC, Rogue and Umpqua RAC, Siskiyou (OR) RAC, Siuslaw RAC, Snohomish-South Mt. Baker Snoqualmie RAC, Southeast Washington Forest RAC, Wenatchee-Okanogan RAC*

Yewah Lau, Pacific Northwest Regional Office, Forest Service, 295142 Highway 101 South, Quilcene, Washington 98379, (360) 981–9101.

**Southern Regional Office—Region VIII**

*Alabama RAC, Cherokee RAC, Daniel Boone RAC, Davy Crockett RAC, Florida National Forests RAC, Francis Marion-Sumter RAC, Kisatchie RAC, Ozark-Ouachita RAC, Sabine-Angelina RAC, Southwest, National Forest in Mississippi, Virginia RAC*

Sheila Holified, Southern Regional Coordinator, Forest Service, 1720 Peachtree Road, Northwest, Atlanta, Georgia 30309, (205) 517–9033.

**Eastern Regional Office—Region IX**

*Allegheny RAC, Chippewa National Forest RAC, Eleven Point RAC, Hiawatha RAC, Huron-Manistee RAC, North Wisconsin RAC, Ottawa, Superior RAC, West Virginia RAC*

David Scozzafave, Eastern Regional Coordinator, Forest Service, 626 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, (414) 297–3602.

**Alaska Regional Office—Region X**

*Kenai Peninsula-Anchorage Borough RAC, North Tongass RAC, Prince William Sound RAC, South Tongass RAC*

Kevin Hood, Alaska Regional Coordinator, Forest Service, 709 West 9th Street, Room 561C, Juneau, Alaska 99801–1807, (907) 586–7829.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Dated: August 8, 2022.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2022–17322 Filed 8–11–22; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Black Hills National Forest Advisory Board

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Notice of meeting.

**SUMMARY:** The Black Hills National Forest Advisory Board (NFAB) will hold a public meeting according to the details shown below. The committee is authorized under the Forest and Rangeland Renewable Resources Planning Act of 1974, the National Forest Management Act of 1976, the Federal Public Lands Recreation Enhancement Act, and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to provide advice and recommendations on a broad range of forest issues such as forest plan revisions or amendments, forest health including fire, insect and disease, travel management, forest monitoring and evaluation, recreation fees, and site specific projects having forest-wide implications. General information can be found at the following website: *https://www.fs.usda.gov/main/blackhills/workingtogether/advisorycommittees*.

**DATES:** The meeting will be held on September 21, 2022, 1:00 p.m.–4:30 p.m., Mountain Daylight Time.

All commmittee meetings are subject to cancellation. For status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** This meeting is open to the public and will be held at the U.S. Forest Service, Mystic Ranger District Office, 8221 Mount Rushmore Road, Rapid City, South Dakota 57702. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received upon request.

**FOR FURTHER INFORMATION CONTACT:** Scott Jacobson, Committee Coordinator, by phone at 605–440–1409 or email at *scott.j.jacobson@usda.gov*.

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours a day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** The meeting agenda will include:

1. Annual Ethics Training;
2. Black Hills National Forest Overview;
3. Getting to know your BHNF Leadership; and
4. Elect Chair/Vice Chair.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should make a request in writing by at least three days before the meeting to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Scott Jacobson, NFAB Committee Coordinator, Mystic Ranger District Office, 8221 Mount Rushmore Road, Rapid City, South Dakota 57702; or by email to *scott.j.jacobson@usda.gov*.

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

Dated: August 8, 2022.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2022–17332 Filed 8–11–22; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Shasta County Resource Advisory Committee

**AGENCY:** Forest Service, Agriculture (USDA).

**ACTION:** Notice of meeting.

**SUMMARY:** The Shasta County Resource Advisory Committee (RAC) will hold two public meetings in September 2022 according to the details shown below. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act (FACA). The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act, as well as make recommendations on recreation fee proposals for sites on the Shasta-Trinity National Forest within Trinity County, consistent with the Federal Lands Recreation Enhancement Act. RAC information and virtual meeting information can be found at the following website: *https://www.fs.usda.gov/main/stnf/workingtogether/advisorycommittees.*

**DATES:** The meetings will be held on the following dates/times:

- September 14, 2022, 9:30 a.m.–11:30 a.m., Pacific Daylight Time, and
- September 21, 2022, 9:30 a.m.–11:30 a.m., Pacific Daylight Time.

All RAC meetings are subject to cancellation. For status of the meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

**ADDRESSES:** The meetings are open to the public and will be held virtually via telephone and/or video conference. Virtual meeting participation details can be found on the website listed under **SUMMARY** or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Weaverville Ranger Station. Please call ahead at 530–623–2121 to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Monique Rea, RAC Coordinator, by phone at 916–580–5651 or via email at *monique.rea@usda.gov.*

Individuals who use telecommunication devices for the deaf and hard of hearing (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339, 24 hours per day, every day of the year, including holidays.

**SUPPLEMENTARY INFORMATION:** The meeting agenda will include:

1. Roll call;
2. Comments from the Designated Federal Official (DFO);
3. RAC project updates;
4. Funding;
5. Elect Chair;
6. Discuss, recommend, approve projects;
7. Public comment period; and
8. Closing comments from the DFO.

The meetings are open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing at least three days prior to the meeting dates, to be scheduled on the agenda for a particular meeting. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Monique Rea, RAC Coordinator, 360 Main Street, Weaverville, California 96093; or by email to *monique.rea@usda.gov.*

USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

Equal opportunity practices in accordance with USDA's policies will be followed in all appointments to the Committee. To ensure that the recommendations of the Committee have taken in account the needs of the diverse groups served by USDA, membership shall include to the extent possible, individuals with demonstrated ability to represent minorities, women, and person with disabilities. USDA is an equal opportunity provider, employer, and lender.

Dated: August 8, 2022.

**Cikena Reid,**

*USDA Committee Management Officer.*

[FR Doc. 2022–17329 Filed 8–11–22; 8:45 am]

**BILLING CODE 3411–15–P**

## COMMISSION ON CIVIL RIGHTS

### Notice of Public Meeting of the Tennessee Advisory Committee, Revision of Virtual Meeting Platform and Additional Meeting Information

**AGENCY:** Commission on Civil Rights.

**ACTION:** Notice; revision of virtual meeting platform and additional meeting information.

**SUMMARY:** The Commission on Civil Rights is holding a meeting of the Tennessee Advisory Committee on Wednesday, August 24, 2022, at 12 p.m. (CT). This notice revises the meeting date and virtual meeting information. The notice is in the **Federal Register** of Wednesday, August 3, 2022 on FR Doc 2022–13390, in the second column of page 37496 and the first column of 37497.

**FOR FURTHER INFORMATION CONTACT:** Victoria Moreno, (434) 515–0204, *vmoreno@usccr.gov.*

*Revision:* The meeting will now take place on Wednesday, August 24, 2022, at 12:00 p.m. (CT) and not Wednesday, August 3, 2022.

Replace Webex virtual details as follows: *https://civilrights.webex.com/civilrights/j.php?MTID=mab53dc5460800e198ea35953e0241884.*

Join via phone: 800–360–9505 USA Toll Free; Access Code: 2763 908 5121#.

Dated: August 9, 2022.

**David Mussatt,**

*Supervisory Chief, Regional Programs Unit.*

[FR Doc. 2022–17390 Filed 8–11–22; 8:45 am]

**BILLING CODE P**

## COMMISSION ON CIVIL RIGHTS

### Sunshine Act Meetings

**AGENCY:** United States Commission on Civil Rights.

**ACTION:** Notice of Commission public business meeting.

**DATES:** Friday, August 19, 2022, 10:00 a.m. EST.

**ADDRESSES:** Meeting to take place virtually and is open to the public via livestream on the Commission's YouTube page: *https://www.youtube.com/user/USCCR/videos.*

**FOR FURTHER INFORMATION CONTACT:** Angelia Rorison: 202–376–8371; *publicaffairs@usccr.gov.*

**SUPPLEMENTARY INFORMATION:**

In accordance with the Government in Sunshine Act (5 U.S.C. 552b), the Commission on Civil Rights is holding a meeting to discuss the Commission's business for the month. This business meeting is open to the public. Computer assisted real-time transcription (CART) will be provided. The web link to access CART (in English) on Friday, August 19, 2022, is *https://www.streamtext.net/player?event=USCCR.* Please note that CART is text-only translation that occurs in real time during the meeting and is not an exact transcript.

**Meeting Agenda**

I. Approval of Agenda
II. Business Meeting
A. Presentations by State Advisory Committee Chairs on Released Reports and Memorandums
B. Discussion and Vote on Advisory Committee Appointments
C. Discussion and Vote on 2023 and 2024 Topics for USCCR Reports
D. Management and Operations
• Staff Director's Report
III. Adjourn Meeting

Dated: August 10, 2022.

**Angelia Rorison,**

*USCCR Media and Communications Director.*

[FR Doc. 2022–17509 Filed 8–10–22; 4:15 pm]

**BILLING CODE 6335–01–P**

## DEPARTMENT OF COMMERCE

### Economic Development Administration

### Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

**AGENCY:** Economic Development Administration, Department of Commerce.

**ACTION:** Notice and opportunity for public comment.

**SUMMARY:** The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

**SUPPLEMENTARY INFORMATION:**

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[6/29/2022 through 7/8/2022]

| Firm name | Firm address | Date received by EDA | Date accepted for investigation | Product(s) |
|---|---|---|---|---|
| Port Clinton Manufacturing, LLC .... | 328 West Perry Street, Port Clinton, OH 43452. | 6/27/2022 | 7/1/2022 | The firm manufactures engine and transmission parts. |
| Haiti Coffee SPC d/b/a Haiti Coffee Co. | 305 Harrison Street, Seattle, WA 98109. | 6/27/2022 | 7/1/2022 | The firm produces coffee. |
| LR Dynamics, Inc ..... | 1949 South 4250 West, Salt Lake City, UT 84104. | 6/28/2022 | 6/30/2022 | The firm manufactures hoisting systems for basketball gymnasiums. |
| Henkel Enterprises, LLC d/b/a Henkel, Inc. | 211 East Church Street, Hammond, LA 70401. | 6/29/2022 | 7/8/2022 | The firm manufactures ovens. |

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.8 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

**Bryan Borlik,**

*Director.*

[FR Doc. 2022–17382 Filed 8–11–22; 8:45 am]

**BILLING CODE 3510–WH–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Extension of Solicitation of Nominations for Membership in the Renewable Energy and Energy Efficiency Advisory Committee

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Extension of solicitation of nominations for membership in the Renewable Energy and Energy Efficiency Advisory Committee.

**SUMMARY:** As announced in the June 15, 2022 **Federal Register**, the Department of Commerce renewed the Renewable Energy and Energy Efficiency Advisory Committee (the Committee) for the 2022–2024 term and requested nominations for membership. This notice extends the solicitation period for membership on the Committee in order to widen the pool of qualified candidates and to ensure that diverse points of view are represented. All nominations previously received pursuant to the June 15, 2022 **Federal Register** will be duly considered during the extended solicitation period and should not be resubmitted. The Committee shall advise the Secretary of Commerce regarding the development

and administration of programs and policies to expand the competitiveness of U.S. exports of renewable energy and energy efficiency goods and services. The Committee's work on renewable energy will focus on technologies, equipment, and services to generate electricity, produce heat, and power vehicles from renewable sources such as solar, wind, biomass, hydropower, geothermal, and hydrogen. The Committee's work on energy efficiency will focus on technologies, services, and platforms that provide system-level energy efficiency to electricity generation, transmission, and distribution. These include smart grid technologies and services, as well as equipment and systems that increase the resiliency of power infrastructure such as energy storage. Climate solutions in the energy sector, such as low-carbon hydrogen production, clean energy transportation, and virtual power plants are also within the scope of the Committee. For the purposes of this Committee, covered goods and services will not include vehicles, feedstock for biofuels, or energy efficiency as it relates to consumer goods or buildings. Non-fossil fuels that reduce carbon consumption (*e.g.,* liquid biofuels and pellets) are included.

**DATES:** All nominations for immediate consideration for appointment must be received by 5:00 p.m. Eastern Daylight Time (EDT) on August 25, 2022. After that date, ITA may continue to accept nominations under this notice to fill any vacancies that may arise.

**ADDRESSES:** Nominations may be emailed to *Cora.Dickson@trade.gov.*

**FOR FURTHER INFORMATION CONTACT:** Cora Dickson, Office of Energy & Environmental Industries; phone 202–482–6083; email *Cora.Dickson@trade.gov.* The REEEAC Charter and other committee materials are posted online at *http://trade.gov/reeeac.*

**SUPPLEMENTARY INFORMATION:** The Committee shall consist of approximately 35 members appointed by the Secretary in accordance with applicable Department of Commerce guidance and based on their ability to carry out the objectives of the Committee. Members shall represent U.S. companies, U.S. trade associations, U.S. private sector organizations, and civil society groups with activities focused on the export competitiveness of U.S. renewable energy and energy efficiency goods and services. The Committee shall also represent the range of company or organizational roles in the development of renewable energy and energy efficiency projects, including, for example, project developers, technology integrators, financial institutions, and manufacturers. Members of the Committee are selected, in accordance with applicable Department of Commerce guidelines, based on their ability to carry out the objectives of the Committee as set forth in the Charter and in a manner that ensures that the Committee is balanced in terms of points of view, industry subsector, geography, and company size. The diverse membership of the Committee assures perspectives reflecting the full breadth of the Committee's responsibilities, and, where possible, the Department of Commerce will also consider the ethnic, racial, and gender diversity and various abilities of the United States population.

Members serve at the pleasure of the Secretary from the date of appointment to the Committee to the date on which the Committee's charter terminates. Members serve in a representative capacity presenting the views and interests of a U.S. entity or U.S. organization, as well as their particular subsector; they are, therefore, not Special Government Employees.

Members of the Committee must not be registered as foreign agents under the Foreign Agents Registration Act. No member may represent a company that is majority owned or controlled by a foreign government entity (or foreign government entities). Members of the Committee will not be compensated for their services or reimbursed for their travel expenses.

If you are interested in applying or nominating someone else to become a member of the Committee, please provide the following information:

(1) Sponsor letter on the company's, trade association's or organization's letterhead containing the name, title, and relevant contact information (including phone and email address) of the individual who is applying or being nominated;

(2) An affirmative statement that the nominee will be able to meet the expected time commitments of Committee work. Committee work includes

- attending in-person committee meetings roughly four times per year (lasting one day each),
- undertaking additional work outside of full committee meetings including subcommittee conference calls or meetings as needed, and
- frequently drafting, preparing, or commenting on proposed recommendations to be evaluated at Committee meetings;

(3) Short biography of nominee, including credentials;

(4) Brief description of the company, trade association, or organization to be represented and its business activities; company size (number of employees and annual sales); and export markets served;

(5) An affirmative statement that the nominee meets all Committee eligibility requirements.

Please do not send company, trade association, or organization brochures or any other information.

See the **ADDRESSES** and **DATES** captions above for how and the deadline for submitting nominations.

Nominees selected for appointment to the Committee will be notified by email.

**Man K. Cho,**

*Deputy Director, Office of Energy and Environmental Industries.*

[FR Doc. 2022–17299 Filed 8–11–22; 8:45 am]

**BILLING CODE 3510–DR–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XC262]**

### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). This meeting will be held in-person without a webinar option. Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This meeting will be held on Wednesday, August 31, 2022, at 8:30 a.m.

**ADDRESSES:** The meeting will be held at the Hilton Garden Inn, 100 Boardman Street, Boston, MA 02129; phone: (617) 567–6789.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:**

**Agenda**

The Groundfish Advisory Panel will discuss development of draft Framework Adjustment 65 specifications and measures: status determination criteria, rebuilding plans for Gulf of Maine (GOM) cod and Southern New England/Mid-Atlantic (SNE/MA) winter flounder, FY2023–FY2024 US/CA total allowable catches, FY2023–FY2024 specifications: Georges Bank (GB) yellowtail flounder and GB cod (including a catch target for the recreational fishery), FY2023–FY2025 specifications for 14 stocks, additional measures to promote stock rebuilding for GB cod, GOM cod and SNE/MA winter flounder, and revised acceptable biological catch (ABC) control rules, in consultation with the Scientific and Statistical Committee. They will also discuss Amendment 23 progress on development of metrics. The advisory panel will also discuss the development of a draft white paper on potential approaches to allocate ''Georges Bank cod'' to the recreational fishery delivered in 2022 to inform the 2023 priorities discussion as well as discuss possible groundfish priorities for 2023. The panel will make recommendations to the Groundfish Committee, as appropriate, and discuss other business, as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the date. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: August 9, 2022.

**Rey Israel Marquez,**

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

[FR Doc. 2022–17388 Filed 8–11–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XC263]**

### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Recreational Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). This meeting will be held in-person without a webinar option. Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This meeting will be held on Wednesday, August 31, 2022, at 1:30 p.m.

**ADDRESSES:** The meeting will be held at the Hilton Garden Inn, 100 Boardman Street, Boston, MA 02129; phone: (617) 567–6789.

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:**

**Agenda**

The Groundfish Recreational Advisory Panel will discuss development of draft Framework Adjustment 65 specifications and measures: status determination criteria, rebuilding plans for Gulf of Maine (GOM) cod and Southern New England/Mid-Atlantic (SNE/MA) winter flounder, FY2023–FY2024 US/CA total allowable catches, FY2023–FY2024 specifications: Georges Bank (GB) yellowtail flounder and GB cod (including a catch target for the recreational fishery), FY2023–FY2025 specifications for 14 stocks, additional measures to promote stock rebuilding for GB cod, GOM cod and SNE/MA winter flounder, and revised acceptable biological catch (ABC) control rules, in consultation with the Scientific and Statistical Committee. The Panel will also discuss the development of a draft white paper on potential approaches to allocate ''Georges Bank cod'' to the recreational fishery delivered in 2022 to inform the 2023 priorities discussion as well as possible groundfish priorities for 2023. They will discuss and provide input to the Groundfish Committee on updating NOAA's National Saltwater Recreational Fisheries Policy. They will also make recommendations to the Groundfish Committee, as appropriate, and discuss other business, as necessary.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the date. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: August 9, 2022.

**Rey Israel Marquez,**

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

[FR Doc. 2022–17389 Filed 8–11–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XC255]**

### Marine Mammals; File No. 26708

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

**ACTION:** Notice; receipt of application.

**SUMMARY:** Notice is hereby given that the Chicago Zoological Society (Michael J. Adkesson, D.V.M., Responsible Party), 3300 South Golf Road, Brookfield, Illinois 60513, has applied in due form for a permit to import and export marine mammal parts for scientific research.

**DATES:** Written, telefaxed, or email comments must be received on or before September 12, 2022.

**ADDRESSES:** The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 26708 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 26708 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Skidmore or Shasta McClenahan, Ph.D., (301) 427–8401.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant proposes to import and export marine mammal parts from South American fur seals (*Arctocephalus australis*) and South American sea lions (*Otaria flavescens*) taken as part of population health studies conducted in Peru. Annual import and export may include samples from up to 100 adults and 200 pups of each species from live animals, and salvaged samples from up to 200 naturally deceased animals from each species. The requested duration of the permit is 5 years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: August 9, 2022.

**Julia M. Harrison,**

*Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 2022–17368 Filed 8–11–22; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[RTID 0648–XC251]**

### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Skate Committee and Advisory Panel via webinar to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** This webinar will be held on Thursday, September 1, 2022, at 9 a.m.

**ADDRESSES:** Webinar registration URL information: *https://attendee.gotowebinar.com/register/5069462611517234957.*

*Council address:* New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:** The Skate Committee and Advisory Panel will meet jointly to review and discuss, the 2022 Northeast Skate Complex Annual Monitoring Report (for FY 2021) including Plan Development Team work to improve methods for catch accounting, specifications, and in-season quota monitoring. They will also develop recommendations for 2023 Council management priorities regarding skates. This could include an action to address the NOAA Fisheries Draft Action Plan to Reduce Atlantic Sturgeon Bycatch in Federal Large Mesh Gillnet Fisheries. Other business may be discussed, as necessary.

Although non-emergency issues not contained on the agenda may come before this Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency. The public also should be aware that the meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: August 9, 2022.

**Rey Israel Marquez,**

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

[FR Doc. 2022–17387 Filed 8–11–22; 8:45 am]

**BILLING CODE 3510–22–P**

## CONSUMER FINANCIAL PROTECTION BUREAU

**[Docket No. CFPB–2022–0057]**

### Agency Information Collection Activities: Comment Request

**AGENCY:** Consumer Financial Protection Bureau.

**ACTION:** Notice and request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (CFPB or Bureau) requests the extension of the Office of Management and Budget's (OMB's) approval of the existing information collection titled ''Privacy of Consumer Financial Information (Regulation P)'' approved under OMB Control Number 3170–0010.

**DATES:** Written comments are encouraged and must be received on or before September 12, 2022 to be assured of consideration.

**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. In general, all

comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

**FOR FURTHER INFORMATION CONTACT:** Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to Anthony May, Paperwork Reduction Act Officer, at (202) 841–0544, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Privacy of Consumer Financial Information (Regulation P).

*OMB Control Number:* 3170–0010.

*Type of review:* Extension of a currently approved information collection.

*Affected Public:* Private sector: businesses or other for-profits.

*Estimated Number of Respondents:* 462,760.

*Estimated Total Annual Burden Hours:* 311,742.

*Abstract:* Section 502 of the Gramm-Leach-Bliley Act (GLBA) (Pub. L. 106–102) generally prohibits a financial institution from sharing nonpublic personal information about a consumer with nonaffiliated third parties unless the institution satisfies various disclosure requirements (*e.g.,* provision of initial privacy notices, annual notices, notices of revisions to the institution's privacy policy and opt-out notices) and the consumer has not elected to opt out of the information sharing. The Bureau promulgated Regulation P (12 CFR 1016) to implement the GLBA notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties.

*Request for Comments:* The Bureau published a 60-day **Federal Register** notice on 5/24/2022 (87 FR 31535) under Docket Number: CFPB–2022–0033. The Bureau is soliciting comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the 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 respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be submitted to OMB as part of its review of this request. All comments will become a matter of public record.

**Anthony May,**

*Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.*

[FR Doc. 2022–17381 Filed 8–11–22; 8:45 am]

**BILLING CODE 4810–AM–P**

## CONSUMER FINANCIAL PROTECTION BUREAU

**[Docket No. CFPB–2022–0056]**

### Agency Information Collection Activities: Comment Request

**AGENCY:** Consumer Financial Protection Bureau.

**ACTION:** Notice and request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (CFPB or Bureau) requests the extension of the Office of Management and Budget's (OMB's) approval of the existing information collection titled ''Equal Credit Opportunity Act (Regulation B)'' approved under OMB Control Number 3170–0013.

**DATES:** Written comments are encouraged and must be received on or before September 12, 2022 to be assured of consideration.

**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. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

**FOR FURTHER INFORMATION CONTACT:** Documentation prepared in support of this information collection request is available at *www.regulations.gov.* Requests for additional information should be directed to Anthony May, Paperwork Reduction Act Officer, at (202) 841–0544, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Equal Credit Opportunity Act (Regulation B).

*OMB Control Number:* 3170–0013.

*Type of review:* Extension of a currently approved information collection.

*Affected Public:* Private sector: businesses or other for-profits.

*Estimated Number of Respondents:* 188,800.

*Estimated Total Annual Burden Hours:* 1,259,448.

*Abstract:* The Equal Credit Opportunity Act (ECOA) was enacted to ensure that credit is made available to all creditworthy applicants without discrimination on the basis of sex, marital status, race, color, religion, national origin, age, or other prohibited bases under the ECOA. The ECOA allows for creditors to collect information for self-testing against these criteria, while not allowing creditors to use this information in making credit decisions of applicants. For certain mortgage applications, the ECOA requires creditors to ask for some of the prohibited information for monitoring purposes. Additionally, for certain mortgage applications, creditors are required to send a copy of any appraisal or written valuation used in the application process to the applicant in a timely fashion.

The ECOA also prescribes creditors must inform applicants of decisions made on credit applications. Particularly where creditors make adverse actions on credit applications or existing accounts, creditors must inform consumers as to why the adverse action was taken such that credit applicants can challenge errors or learn how to become more creditworthy. Creditors must retain all application information for 25 months including notices that they sent, and any information related to adverse actions. The ECOA requires creditors who furnish applicant information to a consumer reporting agency to reflect participation of the applicant's spouse if the spouse is permitted to use or is contractually liable on the account.

*Request for Comments:* The Bureau published a 60-day **Federal Register** notice on 5/24/2022 (87 FR 31538) under Docket Number: CFPB–2022–0032. The Bureau is soliciting comments on: (a) Whether the collection of information is necessary for the proper performance of the functions of

the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the 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 respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be submitted to OMB as part of its review of this request. All comments will become a matter of public record.

**Anthony May,**

*Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.*

[FR Doc. 2022–17362 Filed 8–11–22; 8:45 am]

**BILLING CODE 4810–AM–P**

## DEPARTMENT OF EDUCATION

### Applications for New Awards; Postsecondary Success Program

**AGENCY:** Office of Postsecondary Education, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Department of Education (Department) is issuing a notice inviting applications (NIA) for fiscal year (FY) 2022 for the Postsecondary Success Program, Assistance Listing Number 84.116M. This notice relates to the approved information collection under OMB control number 1894–0006.

**DATES:**

*Applications Available:* August 12, 2022.

*Deadline for Transmittal of Applications:* October 11, 2022.

*Deadline for Intergovernmental Review:* December 12, 2022.

**ADDRESSES:** For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021 (86 FR 73264) and available at *www.federalregister.gov/d/2021-27979.* Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in *SAM.gov* a Data Universal Numbering System (DUNS) number to the implementation of the Unique Entity Identifier (UEI). More information on the phase-out of DUNS numbers is available at *https://www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

**FOR FURTHER INFORMATION CONTACT:** Nemeka Mason, U.S. Department of Education, 400 Maryland Avenue SW, Room 2C102, Washington, DC 20202–4260. Telephone: (202) 453–5650. Email: *Nemeka.Mason@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

**SUPPLEMENTARY INFORMATION:**

**Full Text of Announcement**

**I. Funding Opportunity Description**

*Purpose of Program:* The purpose of this program is to promote postsecondary completion for students close to completion, whether for students currently enrolled in higher education, students who are no longer enrolled because of challenges they faced during the COVID–19 pandemic and close to completion, or both. Institutions may opt to supplement or expand evidence-based and data-driven activities to support retention and completion for both groups. This program aims to improve student outcomes, including retention, transfer, credit accumulation, and completion, by augmenting evidence-based activities that are already underway at eligible institutions of higher education (IHEs).

*Background:* The Consolidated Appropriations Act, 2022 appropriated $76 million for Fund for the Improvement of Postsecondary Education (FIPSE) competitive programs and, within this total, the Joint Explanatory Statement designated $5 million for Postsecondary Student Success Grants ''to support evidence-based activities to improve postsecondary retention and completion rates.'' The Department intends to focus this grant program on data-driven and evidence-based efforts to support Historically Black Colleges and Universities, Tribal Colleges and Universities, Hispanic-Serving Institutions, other Minority-Serving Institutions, and institutions serving large shares of low-income students, to improve existing retention and completion efforts and support students on the path to college completion.

Nationally, the U.S. Census Bureau reports that nearly one in five Americans has some college education but no degree.[1] Fewer than two in three students pursuing a bachelor's degree complete their degree within 6 years, and only about one in three students at 2-year institutions graduates within 150 percent of the expected time to completion. Completion rates are lower for Black, Hispanic, Pacific Islander, and American Indian/Alaska Native students.[2]

The pandemic has further exacerbated some of the college completion challenges that students face. As colleges pivoted to online instruction and students faced unprecedented and simultaneous health, family, and employment challenges, an estimated 1 million students left school. Many still have not returned.[3] Community colleges have seen the largest declines in enrollment. Leaving school before earning a credential may have particularly significant consequences for students who leave school with debt; such borrowers are far more likely to default on their student loans, even when their balances are low.[4]

Many institutions have engaged in institutional reform efforts or implemented evidence-based activities that helped to improve their students' rates of completion. For instance, corequisite remediation programs have helped students to stay enrolled and on track for completion by allowing them to earn credit while completing developmental education courses.[5] Robust academic advising efforts have helped students to establish clear pathways for their degree completion, cutting down on unnecessary coursework, encouraging the completion of academic coursework and the accumulation of credits, and ensuring students return to school.[6] Initiatives and programs like the ''Degrees When Due'' reverse-transfer initiative[7] have helped many institutions of higher education (IHEs) not only to retain students, but also to

[1] U.S. Census Bureau, Educational Attainment in the United States: 2020, *https://www.census.gov/data/tables/2020/demo/educational-attainment/cps-detailed-tables.html.*

[2] *https://nces.ed.gov/programs/raceindicator_red.asp.*

[3] Causey, J., Kim, H., Ryu, M., Scheetz, A., & Shapiro, D. (2022, May). Some College, No Credential Student Outcomes, Annual Progress Report—Academic Year 2020/21, Herndon, VA: National Student Clearinghouse Research Center. *https://nscresearchcenter.org/wp-content/uploads/SCNCReportMay2022.pdf.*

[4] Miller, B. (2017, December 14). Who Are Student Loan Defaulters? Center for American Progress. *https://www.americanprogress.org/article/student-loan-defaulters/.*

[5] See, for example, *https://ies.ed.gov/ncee/wwc/Intervention/1602; https://ies.ed.gov/ncee/wwc/Study/90316;* or *https://ies.ed.gov/ncee/wwc/Study/90306.*

[6] See, for example, *https://ies.ed.gov/ncee/wwc/PracticeGuide/28; https://ies.ed.gov/ncee/wwc/Intervention/1072;* and *https://ies.ed.gov/ncee/wwc/Docs/InterventionReports/WWC-PEPPER_IR-Report_InsideTrack_508.pdf.*

[7] Institute for Higher Education Policy (n.d.). Degrees When Due. *https://degreeswhendue.com/#.*

reenroll students who stopped out of postsecondary education.

We believe the college completion funds available through this grant program will help to amplify the work already happening on campuses to improve retention and completion and reengage students who are close to completion, especially nontraditional students. Specifically, the Department encourages applicants that have already committed to evidence-based practices for reenrollment and retention, completion, and/or closing equity gaps to apply for this grant program. Wherever possible, institutions should note their participation in networks and communities of practice related to college completion efforts as evidence of the institution's commitment to this work and capacity both to conduct the work and to share it with partner institutions. We also urge applicant institutions to think carefully about opportunities to evaluate their strategies as rigorously as possible to ensure they produce high-quality information about the effectiveness of the intervention as the strength of the institution's proposed evaluation plan will be a key factor in reviewing the application, as detailed in the selection criteria. Additionally, subject to the availability of funding, successful applicants may be required to work with a Department technical assistance provider in carrying out project evaluations that will build evidence of effectiveness.

*Priorities:* This notice contains one absolute priority and one invitational priority. We are establishing the absolute priority for the FY 2022 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

*Absolute Priority:* This priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Projects that are designed to improve postsecondary student outcomes and that are supported by evidence that meets the conditions in the definition of ''promising evidence'' (as defined in 34 CFR 77.1(c)). In responding to this priority, applicants must identify one or more of the proposed activities (project components) that meet the promising evidence standard and include a logic model that demonstrates the relationship between such proposed activities and the relevant outcomes the project is designed to achieve.

*Invitational Priority:* This priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

*Participation by Community Colleges.*

Applications from community colleges (as defined in this notice).

*Definitions:* We are establishing definitions for ''Community college,'' ''Minority-serving institution,'' ''Prior learning assessment,'' and ''Stopped-out student,'' for the FY 2022 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, in accordance with section 437(d)(1) of GEPA. The remaining definitions are from 34 CFR 77.1.

*Community college* means an institution that meets the definition in section 312(f) of the Higher Education Act of 1965 (HEA) (20 U.S.C. 1058(f)) or an IHE (as defined in section 101 of the HEA) that awards degrees and certificates, more than 50 percent of which are not bachelor's degrees (or an equivalent) or master's, professional, or other advanced degrees.

*Experimental study* means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks:

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

*Logic model* (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

*Note:* In developing logic models, applicants may want to use resources such as the Pacific Education Laboratory's Logic Model Application *((https://ies.ed.gov/ncee/rel/products/resource/100677).*

*Minority-serving institution* means an institution that is eligible to receive assistance under sections 316 through 320 of part A of title III, under part B of title III, or under title V of the HEA.

*Performance measure* means any quantitative indicator, statistic, or metric used to gauge program or project performance.

*Prior learning assessment* means the process by which an individual's learning (that may have been acquired through on-the-job experiences, corporate training, military training or experience, volunteer work, or self-guided study) is assessed and evaluated for purposes of granting college credit, certification, or advanced standing toward further education or training.

*Project component* means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

*Promising evidence* means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by What Works Clearinghouse (WWC) reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-

designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome.

*Quasi-experimental design study* means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbooks.

*Relevant outcome* means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

*Stopped-out student* means a student who began pursuing postsecondary education and left an IHE prior to earning a certificate or degree.

*What Works Clearinghouse (WWC) Handbooks (WWC Handbooks)* means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation.

*Waiver of Proposed Rulemaking:* Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities, definitions, requirements, and selection criteria. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program and, therefore, qualifies for this exemption. To ensure timely grant awards, the Secretary has decided to forgo public comment on the priorities, requirements, definitions, and selection criteria under section 437(d)(1) of GEPA.

*Program Authority:* HEA sections 741–745, 20 U.S.C. 1138–1138d, the Explanatory Statement accompanying Division H of the Consolidated Appropriations Act, 2022 (Pub. L. 117–103).

*Note:* Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in the Federal civil rights laws.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

## II. Award Information

*Type of Award:* Discretionary grant.

*Estimated Available Funds:* $4,950,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

*Estimated Range of Awards:* $600,000 to $1,000,000 for 24 months.

*Estimated Average Size of Awards:* $800,000 for 24 months.

*Estimated Number of Awards:* 5–8.

*Note:* The Department is not bound by any estimates in this notice.

*Project Period:* Up to 24 months.

## III. Eligibility Information

1. *Eligible Applicants:* IHEs that are designated as eligible to apply under the HEA title III and V programs. For institutions applying as a consortium, the lead applicant must be eligible to apply under the HEA title III and V programs.

*Note:* The notice announcing the FY 2022 process for designation of eligible institutions, and inviting applications for waiver of eligibility requirements, was published in the **Federal Register** on December 16, 2021 (86 FR 71470). The Department extended the deadline for applications until February 18, 2022, in a notice published in the **Federal Register** on February 7, 2022 (87 FR 6855). Only institutions that the Department determines are eligible, or which are granted a waiver under the process described in the December 16, 2021, notice, and that meet the other eligibility requirements described in this notice, may apply for a grant under this program. To determine if your institution is eligible for this grant program please visit, *https://www2.ed.gov/about/offices/list/ope/idues/eligibility.html.*

2.a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This competition involves supplement-not-supplant funding requirements. This program uses the waiver authority of section 437(d)(1) of GEPA to establish this as a supplement-not-supplant program. Grant funds must be used so that they supplement and, to the extent practical, increase the funds that would otherwise be available for the activities to be carried out under the grant and in no case supplant those funds.

c. *Indirect Cost Rate Information:* This program uses the waiver authority of section 437(d)(1) of GEPA to limit a grantee's indirect cost reimbursement to 8 percent of a modified total direct cost base. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

d. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

4. *Evaluation:* This program uses the waiver authority of section 437(d)(1) of GEPA to require a grantee to conduct an independent evaluation of the effectiveness of its project.

5. *Other Requirement:* This program uses the waiver authority of section 437(d)(1) of GEPA to require applicants to specify the IHE's annual percentage of stop-out students for academic years 2017–2021. This information must be included in the program abstract.

## IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on

December 27, 2021 (86 FR 73264) and available at *www.federalregister.gov/d/2021-27979.* Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in *SAM.gov* a Data Universal Numbering System (DUNS) number to the implementation of the Unique Entity Identifier (UEI). More information on the phase-out of DUNS numbers is available at *https://www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

2. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 40 pages and (2) use the following standards:

- A ''page'' is 8.5′ x 11′, on one side only, with 1″ margins at the top, bottom, and both sides.
- Doublespace (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger, and no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract. However, the recommended page limit does apply to all of the application narrative.

*Note:* The Budget Information-Non-Construction Programs Form (ED 524) Sections A–C are not the same as the narrative response to the Budget section of the selection criteria.

## V. Application Review Information

1. *Selection Criteria:* The following selection criteria for this program are from 34 CFR 75.210. The points assigned to each criterion are indicated in the parentheses next to the criterion. An applicant may earn up to a total of 100 points based on the selection criteria. All applications will be evaluated based on the selection criteria as follows:

(a) *Need for Project.* (Maximum of 15 points)

(1) The Secretary considers the need for the proposed project.

(2) In determining the need for the proposed project, the Secretary considers the following factors:

(i) The magnitude or severity of the problem to be addressed by the proposed project. (Up to 10 points)

(ii) The extent to which the proposed project will provide services or otherwise address the needs of students at risk of educational failure. (Up to 5 points)

(b) *Significance.* (Maximum of 10 points)

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The likelihood that the proposed project will result in system change or improvement. (Up to 5 points)

(ii) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population. (Up to 5 points)

(c) *Quality of the Project Design.* (Maximum 5 points)

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (Up to 5 points)

(d) *Quality of Project Services.* (Maximum 30 points)

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. (Up to 10 points)

(3) In addition, the Secretary considers the following factors:

(i) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services. (Up to 10 points)

(ii) The likelihood that the services to be provided by the proposed project will lead to improvements in the skills necessary to gain employment. (Up to 10 points)

(e) *Quality of the Management Plan.* (Maximum 10 points)

(1) The Secretary considers the quality of the management plan for the proposed project.

(2) In determining the quality of the management plan for the proposed project, the Secretary considers the adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks. (Up to 10 points)

(f) *Quality of the Project Evaluation.* (Maximum 30 points)

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project. (Up to 5 points)

(ii) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible. (Up to 5 points)

(iii) The extent to which the methods of evaluation will, if well implemented, produce evidence about the project's effectiveness that would meet the What Works Clearinghouse standards with or without reservations as described in the What Works Clearinghouse Handbook (as defined in 34 CFR 77.1(c)). (Up to 20 points)

2. *Review and Selection Process:* Potential applicants are reminded that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires

various assurances including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

A panel of non-Federal reviewers will review and score each application in accordance with the selection criteria. A rank order funding slate will be made from this review. Awards will be made in rank order according to the average score received from the peer review.

Before making awards, we will screen applications submitted in accordance with the requirements in this notice to determine whether applications have met eligibility and other requirements. This screening process may occur at various stages of the process; applicants that are determined to be ineligible will not receive a grant, regardless of peer reviewer scores or comments.

*Tiebreaker:* If there is more than one application with the same score and insufficient funds to fund all the applications with the same ranking, the application with the highest percentage of degree/certificate-seeking undergraduate students who are Pell grant recipients will be funded.

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

## VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements, please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html*.

5. *Performance Measures:* Under 34 CFR 75.110, the following five performance measures will be used in assessing the performance of the Postsecondary Success Program:

(a) Number and percentage of stopped-out students who reenrolled at the institution.

(b) Number and percentage of stopped-out students who were served by the grant and who reengaged and earned a certificate, an associate degree, or a bachelor's degree.

(c) Number and percentage of currently enrolled students who were served by the grant and who were still

enrolled at the institution in the following academic year.

(d) Number and percentage of currently enrolled students who were served by the grant and who earned a certificate, an associate degree, or a bachelor's degree.

These measures constitute the Department's indicators of success for this program. Consequently, we advise an applicant for an award under this program to consider the operationalization of the measures in conceptualizing the approach and evaluation for its proposed project.

If funded, you will be required to collect and report data in your project's annual performance report (34 CFR 75.590).

## VII. Other Information

*Accessible Format:* On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov*. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov*. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Michelle Asha Cooper,**

*Acting Assistant Secretary for the Office of Postsecondary Education.*

[FR Doc. 2022–17321 Filed 8–11–22; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

**[Docket No.: ED–2022–SCC–0104]**

### Agency Information Collection Activities; Comment Request; Generic Clearance for Federal Student Aid Customer Satisfaction Surveys and Focus Groups Master Plan

**AGENCY:** Federal Student Aid (FSA), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

**DATES:** Interested persons are invited to submit comments on or before October 11, 2022.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0104. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov*. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 377–4018.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education 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:* Generic Clearance for Federal Student Aid Customer Satisfaction Surveys and Focus Groups Master Plan.

*OMB Control Number:* 1845–0045.

*Type of Review:* Extension without change of a currently approved collection.

*Respondents/Affected Public:* Individuals or Households.

*Total Estimated Number of Annual Responses:* 8,050,000.

*Total Estimated Number of Annual Burden Hours:* 400,000.

*Abstract:* The Higher Education Amendments of 1998 established Federal Student Aid (FSA) as the first Performance-Based Organization (PBO). One purpose of the PBO is to improve service to student and other participants in the student financial assistance programs authorized under title IV of the Higher Education Act of 1965, as amended, including making those programs more understandable to students and their parents. To do that, FSA has committed to ensuring that all people receive service that matches or exceeds the best service available in the private sector. The legislation's requires establish an on-going need for FSA to be engaged in an interactive process of collecting information and using it to improve program services and processes. The use of customer surveys and focus groups allows FSA to gather that information from the affected parties in a timely manner so as to improve communications with our product users.

Dated: August 9, 2022.

**Kun Mullan,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2022–17333 Filed 8–11–22; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF ENERGY

### Electricity Advisory Committee

**AGENCY:** Office of Electricity, Department of Energy.

**ACTION:** Notice of renewal.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act and following consultation with the Committee Management Secretariat, General Services Administration, notice is hereby given that the Electricity Advisory Committee's (EAC) charter has been renewed for a two-year period, beginning on August 5, 2022.

**SUPPLEMENTARY INFORMATION:** The Committee will provide advice and recommendations to the Assistant Secretary for Electricity on programs to modernize the Nation's electric power system.

Additionally, the renewal of the EAC has been determined to be essential to conduct Department of Energy business and to be in the public interest in connection with the performance of duties imposed upon the Department of Energy, by law and agreement. The Committee will continue to operate in accordance with the provisions of the Federal Advisory Committee Act, adhering to the rules and regulations in implementation of that Act.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jayne Faith, Designated Federal Officer at (202) 586–5260; email: *jayne.faith@hq.doe.gov.*

### Signing Authority

This document of the Department of Energy was signed on August 5, 2022, by Miles Fernandez, Acting Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 9, 2022.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2022–17376 Filed 8–11–22; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Extension of Public Comment Period, Draft Supplemental Environmental Impact Statement II for Long Term Management and Storage of Elemental Mercury

**AGENCY:** Office of Environmental Management, Department of Energy.

**ACTION:** Extension of public comment period.

**SUMMARY:** On July 8, 2022, a **Federal Register** Notice was issued that announced the availability of the U.S. Department of Energy (DOE) Office of Environmental Management's Draft Long-Term Management and Storage of Elemental Mercury Supplemental Environmental Impact Statement (Draft Mercury Storage SEIS–II, DOE/EIS–0423–S2D). The Notice also announced two web-based public hearings that were held on August 2 and 4, 2022, to obtain public comments. DOE is extending the public comment period for the Draft SEIS from August 22, 2022, to September 6, 2022.

**DATES:** DOE extends the public comment period to September 6, 2022. DOE will consider all comments submitted or postmarked by September 6, 2022. Comments submitted to DOE concerning the Draft Mercury Storage SEIS–II, prior to this announcement do not need to be resubmitted as a result of this extension of the comment period.

**ADDRESSES:** Additional information regarding the SEIS–II, the 2011 Mercury Storage EIS, 2013 Mercury Storage SEIS, and other related documents is available online at: *https://www.energy.gov/nepa/doeeis-0423-s2-supplemental-environmental-impact-statement-long-term-management-and-storage:*

- *Mail:* Ms. Julia Donkin, Document Manager, Office of Environmental Management, Department of Energy, EM–4.22, 1000 Independence Avenue SW, Washington, DC 20585.
- *Email: ElementalMercury_NEPA@em.doe.gov.* Please submit comments as an email message or email attachment (*i.e.,* Microsoft Word or PDF file format) without encryption.
- *Postal Mail:* Please submit comments by U.S. Mail to Ms. Julia Donkin, NEPA Document Manager, Office of Environmental Management, U.S. Department of Energy, EM–4.22, 1000 Independence Avenue SW, Washington, DC 20585.
- *Website:* The Draft Mercury Storage SEIS–II is available at: *https://www.energy.gov/nepa/doeeis-0423-s2-supplemental-environmental-impact-statement-long-term-management-and-storage.*

**FOR FURTHER INFORMATION CONTACT:** Questions concerning the Draft Mercury Storage SEIS–II or the public hearing can be sent to Ms. Julia Donkin, NEPA Document Manager, Office of Environmental Management, U.S. Department of Energy, EM–4.22, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–5000, or to *Julia.Donkin@em.doe.gov.* Direct questions specific to DOE's elemental mercury program to Mr. David Haught, Mercury Program Manager, Office of Environmental Management, U.S. Department of Energy, EM–4.22, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–5000, or to *David.Haught@hq.doe.gov.*

- For general information concerning the DOE Office of Environmental Management NEPA process, please contact Mr. William Ostrum, Office of Environmental Management NEPA Compliance Officer, U.S. Department of Energy, EM–4.31, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–2513, or to *William.Ostrum@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:** On July 8, 2022, DOE published in the **Federal Register** the Notice of Availability announcing the availability of the second Draft Long-Term Management and Storage of Elemental Mercury Supplemental Environmental Impact Statement (Draft Mercury Storage SEIS–II, DOE/EIS–0423–S2D) for public comment (87 FR 40830). In that notice, DOE also announced that it would host two web-based public hearings to allow DOE to present information about the Draft SEIS–II and to receive oral comments from the public. The first hearing was held on August 2, 2022, from 12:00 p.m. to 2:00 p.m. EDT. The second hearing was held on August 4, 2022, from 1:00 p.m. to 3:00 p.m. EDT.

### Signing Authority

This document of the Department of Energy was signed on August 5, 2022, by William I. White Senior Advisor for Environmental Management, Office of Environmental Management, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is

maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on August 9, 2022.

**Treena V. Garrett,**

*Federal Register Liaison Officer, U.S. Department of Energy.*

[FR Doc. 2022–17375 Filed 8–11–22; 8:45 am]

**BILLING CODE 6450–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. P–2411–030]**

### Eagle Creek Schoolfield Hydro, LLC, City of Danville; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.*: 2411–030.

c. *Date Filed:* July 29, 2022.

d. *Applicant:* Eagle Creek Schoolfield, LLC and City of Danville.

e. *Name of Project:* Schoolfield Hydroelectric Project (Schoolfield Project).

f. *Location:* The project is located on the Dan River at approximately river mile 60.1 in the county of Pittsylvania, near the City of Danville, Virginia. The project does not occupy any federal land.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts*: Ms. Joyce Foster, Director, Licensing and Compliance Eagle Creek Renewable Energy, LLC, 7315 Wisconsin Avenue, Suite 1100W, Bethesda, MD 20814; Phone at (804) 338–5110 or email at *Joyce.Foster@eaglecreekre.co;* Ms. Jody Smet, Vice President, Regulatory Affairs, Eagle Creek Renewable Energy, LLC, 7315 Wisconsin Ave., Suite 1100W, Bethesda, MD 20814; Phone at (240) 482–2700 or email at *jody.smet@eaglecreekre.com;* and Mr. W Clarke Whitfield, Junior, City Attorney, City of Danville, 427 Patton Street, Room 421, Danville, VA 24541; Phone at (434) 799–5122 or email at *whitfcc@danvilleva.gov.*

i. *FERC Contact:* Erin Stockschlaeder at (202) 502–8107, or *Erin.stockschlaeder@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. See, 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* September 27, 2022.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* 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 submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Schoolfield Project (P–2411–030).

m. This application is not ready for environmental analysis at this time.

n. *The Schoolfield Project consists of the following existing facilities:* (1) a 910-foot-long, 25-foot-high curved ogee-type concrete spillway dam with a crest elevation of 434.7 feet National Geodetic Vertical Datum of 1929 (NGVD29) and topped with 3-foot-high wooden flashboards; (2) a reservoir having a surface area of 287 acres and a gross storage capacity of approximately 1,952 acre-feet at the project's normal maximum water surface elevation of 437.7 feet NGVD29; (3) a 224-foot-long by 35-foot-wide brick and concrete powerhouse that contains three identical 1.5-megawatt (MW) generating units (each generating unit is connected to two identical propeller-type turbine units with rated capacity of 1,006 horsepower each) for a total installed capacity of 4.5 MW; (4) a 72-foot-long headwall between the dam and the powerhouse with six low-level sluice gates and a non-operating fish ladder; (5) a tailrace that is approximately 160 feet long and 220 feet wide and separated from main river flows by a concrete wall; (6) a substation; (7) generator leads and a step-up transformer; and (8) appurtenant facilities.

The Schoolfield Project is operated in run-of-river mode, which may be suspended during reservoir drawdown and refilling for inspection of the City of Danville, Virginia's water supply intakes, which occurs on an as needed basis. During normal operation, an instantaneous minimum flow of 300 cubic feet per second is released downstream. The minimum flow is typically provided as part of generation flows. Average annual generation at the project was 15,220 megawatt-hours from 2017–2020.

o. A copy of the application can be viewed on the Commission's website at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document (P–2411). For assistance, contact FERC at *FERCOnlineSupport@ferc.gov,* or call toll-free, (866) 208–3676 or (202) 502–8659 (TTY).

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. For assistance, contact FERC Online Support.

p. *Procedural schedule:* The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency Letter (if necessary)—September 2022

Request Additional Information—September 2022

Issue Acceptance Letter—December 2022

Issue Scoping Document 1 for comments—January 2023

Request Additional Information (if necessary)—February 2023

Issue Scoping Document 2—March 2023

Issue Notice of Ready for Environmental Analysis—April 2023

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: August 8, 2022.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2022–17367 Filed 8–11–22; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2336–094]**

### Georgia Power Company; Notice of Intent to Prepare an Environmental Assessment

On January 3, 2022, Georgia Power filed an application for a new, major license for the 18-megawatt Lloyd Shoals Hydroelectric Project (Lloyd Shoals Project; FERC No. 2336). The Lloyd Shoals Project is located on the Ocmulgee River in Butts, Henry, Jasper, and Newton Counties, Georgia. The project does not occupy federal lands.

In accordance with the Commission's regulations, on May 26, 2022, Commission staff issued a notice that the project was ready for environmental analysis (REA Notice). Based on the information in the record, including comments filed on the REA Notice, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an Environmental Assessment (EA) on the application to relicense the Lloyd Shoals Project.

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by Commission staff and considered in the Commission's final licensing decision.

The application will be processed according to the following schedule. Revisions to the schedule may be made as appropriate.

| Milestone | Target date |
|---|---|
| Commission issues EA | January 2023[1]. |
| Comments on EA | February 2023. |

Any questions regarding this notice may be directed to Navreet Deo at (202) 502–6304, or *navreet.deo@ferc.gov.*

Dated: August 8, 2022.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2022–17366 Filed 8–11–22; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2394–007; ER10–2395–007; ER11–3642–021.

*Applicants:* Tanner Street Generation, LLC, Colorado Power Partners, BIV Generation Company, L.L.C.

*Description:* Notice of Change in Status of BIV Generation Company, L.L.C., et al.

*Filed Date:* 8/8/22.

*Accession Number:* 20220808–5034.

*Comment Date:* 5 p.m. ET 8/29/22.

*Docket Numbers:* ER11–4666–005; ER11–4667–005; ER11–4670–010; ER12–295–004; ER13–1368–002.

*Applicants:* NaturEner Wind Watch, LLC, NaturEner Rim Rock Wind Energy, LLC, NaturEner Power Watch, LLC, NaturEner Glacier Wind Energy 2, LLC, NaturEner Glacier Wind Energy 1, LLC.

*Description:* Notice of Non-Material Change in Status of NaturEner Glacier Wind Energy 1, LLC, et al.

*Filed Date:* 8/2/22.

*Accession Number:* 20220802–5180.

*Comment Date:* 5 p.m. ET 8/23/22.

*Docket Numbers:* ER22–2618–000.

*Applicants:* BIV Generation Company, L.L.C.

*Description:* § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 8/9/2022.

*Filed Date:* 8/8/22.

*Accession Number:* 20220808–5018.

*Comment Date:* 5 p.m. ET 8/29/22.

*Docket Numbers:* ER22–2619–000.

*Applicants:* Colorado Power Partners.

*Description:* § 205(d) Rate Filing: Market-Based Rate Tariff Revisions to be effective 8/9/2022.

*Filed Date:* 8/8/22.

*Accession Number:* 20220808–5019.

*Comment Date:* 5 p.m. ET 8/29/22.

*Docket Numbers:* ER22–2620–000.

*Applicants:* Avista Corporation.

*Description:* § 205(d) Rate Filing: Avista Corp Engineering Service Agreement RS T1180 to be effective 9/7/2022.

*Filed Date:* 8/8/22.

*Accession Number:* 20220808–5064.

*Comment Date:* 5 p.m. ET 8/29/22.

*Docket Numbers:* ER22–2621–000.

*Applicants:* Tri-State Generation and Transmission Association, Inc.

*Description:* § 205(d) Rate Filing: Amendment to Tri-State WAPA–RMR Balancing Authority Service Agreement to be effective 7/7/2022.

*Filed Date:* 8/8/22.

*Accession Number:* 20220808–5112.

*Comment Date:* 5 p.m. ET 8/29/22.

*Docket Numbers:* ER22–2622–000.

*Applicants:* Chaparral Springs, LLC.

*Description:* Baseline eTariff Filing: Market-Based Rate Application to be effective 10/8/2022.

*Filed Date:* 8/8/22.

*Accession Number:* 20220808–5125.

*Comment Date:* 5 p.m. ET 8/29/22.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 8, 2022.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2022–17353 Filed 8–11–22; 8:45 am]

**BILLING CODE 6717–01–P**

[1] The Council on Environmental Quality's (CEQ) regulations under 40 CFR 1501.10(b)(1) require that EAs be completed within 1 year of the federal action agency's decision to prepare an EA. This notice establishes the Commission's intent to prepare an EA for the Lloyd Shoals Project. Therefore, in accordance with CEQ's regulations, the EA must be issued within 1 year of the issuance date of this notice.

## 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:* RP22–1112–000.

*Applicants:* El Paso Natural Gas Company, L.L.C.

*Description:* § 4(d) Rate Filing: Negotiated Rate Agreement Filing (Koch) to be effective 8/6/2022.

*Filed Date:* 8/5/22.

*Accession Number:* 20220805–5058.

*Comment Date:* 5 p.m. ET 8/17/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: August 8, 2022.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2022–17352 Filed 8–11–22; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OW–2008–0150; FRL–10140–01–OMS]**

### Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Establishing No-Discharge Zones (NDZs) Under Clean Water Act Section 312 (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Establishing No-Discharge Zones (NDZs) under Clean Water Act Section 312 (EPA ICR number 1791.09, OMB Control Number 2040–0187) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR that is currently approved through August 31, 2022. Public comments were previously requested via the **Federal Register** on January 25, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A description of the ICR is given below, including its estimated burden and cost to the public. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before September 12, 2022.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OW–2008–0150, online using *www.regulations.gov* (our preferred method), by email to *OW-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

For additional delivery options and information about EPA's dockets, visit *https://www.epa.gov/dockets.* EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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:** Kelsey Watts-FitzGerald, Oceans, Wetlands, and Communities Division, Office of Wetlands, Oceans, and Watersheds, 4504T, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–0232; email address: *watts-fitzgerald.kelsey@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

*Abstract:* (A) Sewage No-Discharge Zones (NDZs): CWA section 312(f) and the implementing regulations in 40 CFR part 140 identify the information that must be included in a state's application to the EPA to establish an NDZ for vessel sewage for some or all the state's waters.

In designated NDZs, discharge of both treated and untreated sewage from vessels is prohibited. A state is not required to designate an NDZ and therefore need only develop applications for waters where such a discharge prohibition has been deemed necessary and beneficial by the state. This ICR addresses the burden to state respondents to develop applications containing the necessary information, as well as the burden associated with the EPA's review of state applications. The information collection activities discussed in this ICR do not require the submission of any confidential information.

(B) Uniform National Discharge Standards (UNDS) NDZs and Review of Discharge Determination or Standard: CWA section 312(n)(7) and the implementing regulations in 40 CFR part 1700 identify the information that a state must submit to the EPA in the state's application to establish an NDZ for one or more discharges incidental to the normal operation of a vessel of the Armed Forces. A state may seek an NDZ designation for any incidental discharge subject to UNDS for which the EPA and Department of Defense (DoD) have promulgated national standards of performance and corresponding implementing regulations, respectively. In addition, CWA section 312(n)(5) provides that that the Governor of any state may petition the EPA and DoD to review any discharge determination or standard promulgated under CWA section 312(n) for vessels of the Armed Forces if there is significant new information that could reasonably result in a change to the discharge determination or standard. This ICR addresses the burden to a state respondent to develop applications for NDZs and requests for a review of a

determination or standard and the burden to the EPA to review the applications. The information collection activities discussed in this ICR do not require the submission of any confidential information.

*Form Numbers:* None.

*Respondents/affected entities:* States.

*Respondent's obligation to respond:* The responses to this collection of information are required to obtain the benefit of a vessel sewage NDZ (CWA section 312(f)) or an UNDS NDZ or review of a discharge determination or standard (CWA section 312(n)).

*Estimated number of respondents:* 11 (total).

*Frequency of response:* One time.

*Total estimated burden:* 577 hours (per year). Burden is defined at 5 CFR 1320.03(b)

*Total estimated cost:* $34,713 (per year), includes $548 annualized capital or operation & maintenance costs.

*Changes in the Estimates:* There is a decrease of 337 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This estimated decrease is attributable to a downward adjustment in the estimated number of anticipated total actions during the upcoming 3-year period.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2022–17385 Filed 8–11–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2022–0116; FRL–9412–13–OCSPP]**

## Certain New Chemicals or Significant New Uses; Statements of Findings for March 2022 and April 2022

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Toxic Substances Control Act (TSCA) requires EPA to publish in the **Federal Register** a statement of its findings after its review of certain TSCA submissions when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to premanufacture notices (PMNs), microbial commercial activity notices (MCANs), and significant new use notices (SNUNs) submitted to EPA under TSCA. This document presents statements of findings made by EPA on such submissions during the period from March 1, 2022 to April 30, 2022.

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2022–0116, is available online at *https://www.regulations.gov* or in-person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. For the latest status information on EPA/DC services and docket access, visit *https://www.epa.gov/dockets.*

**FOR FURTHER INFORMATION CONTACT:**

*For technical information contact:* Rebecca Edelstein, New Chemical Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1667 email address: *edelstein.rebecca@epa.gov.*

*For general information contact:* The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Executive Summary

*A. Does this action apply to me?*

This action provides information that is directed to the public in general.

*B. What action is the Agency taking?*

This document lists the statements of findings made by EPA after review of submissions under TSCA section 5(a) that certain new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment. This document presents statements of findings made by EPA during the reporting period.

*C. What is the Agency's authority for taking this action?*

TSCA section 5(a)(3) requires EPA to review a submission under TSCA section 5(a) and make one of the following specific findings:

- The chemical substance or significant new use presents an unreasonable risk of injury to health or the environment;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects of the chemical substance or significant new use;
- The information available to EPA is insufficient to permit a reasoned evaluation of the health and environmental effects and the chemical substance or significant new use may present an unreasonable risk of injury to health or the environment;
- The chemical substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance; or
- The chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment.

Under TSCA, the unreasonable risk findings must be made without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant under the conditions of use. The term ''conditions of use'' is defined in TSCA section 3 to mean ''the circumstances, as determined by the Administrator, under which a chemical substance is intended, known, or reasonably foreseen to be manufactured, processed, distributed in commerce, used, or disposed of.''

TSCA section 5(g) requires EPA to publish in the **Federal Register** a statement of its findings after its review of a submission under TSCA section 5(a) when EPA makes a finding that a new chemical substance or significant new use is not likely to present an unreasonable risk of injury to health or the environment. Such statements apply to PMNs, MCANs, and SNUNs submitted to EPA under TSCA section 5.

Anyone who plans to manufacture (which includes import) a new chemical substance for a non-exempt commercial purpose and any manufacturer or processor wishing to engage in a use of a chemical substance designated by EPA as a significant new use must submit a notice to EPA at least 90 days before commencing manufacture of the new chemical substance or before engaging in the significant new use.

The submitter of a notice to EPA for which EPA has made a finding of ''not likely to present an unreasonable risk of injury to health or the environment'' may commence manufacture of the chemical substance or manufacture or processing for the significant new use

notwithstanding any remaining portion of the applicable review period.

### II. Statements of Findings Under TSCA Section 5(a)(3)(C)

In this unit, EPA provides the following information (to the extent that such information is not claimed as Confidential Business Information (CBI)) on the PMNs, MCANs and SNUNs for which, during this period, EPA has made findings under TSCA section 5(a)(3)(C) that the new chemical substances or significant new uses are not likely to present an unreasonable risk of injury to health or the environment:

The following list provides the EPA case number assigned to the TSCA section 5(a) submission and the chemical identity (generic name if the specific name is claimed as CBI).

- J–21–0020, J–21–0021, J–21–0022, J–21–0023, J–21–0024, J–21–0025, CinderBio-1 (Generic Name).
- J–22–0009, J–22–0010, Genetically modified microorganism for the production of a chemical substance (Generic Name).
- P–21–0189, Fats and Glyceridic oils, algae; CASRN: 1353573–84–8.
- J–22–0011, Biofuel producing *Saccharomyces cerevisiae* modified, genetically stable (Genetic Name).
- P–21–0176, Alkane dioic acid, bis (poly aromatic triazine) alkanoic ether phenoxy ester (Genetic Name).

To access EPA's decision document describing the basis of the ''not likely to present an unreasonable risk'' finding made by EPA under TSCA section 5(a)(3)(C), look up the specific case number at *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/chemicals-determined-not-likely.*

*Authority:* 15 U.S.C. 2601 *et seq.*

Dated: July 28, 2022.

**Madison Le,**

*Director, New Chemicals Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 2022–17393 Filed 8–11–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2022–0544; FRL–9988–01–OCSPP]**

## Pesticide Registration Maintenance Fee: Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is issuing a notice of receipt of requests by registrants through 2022 Pesticide Registration Maintenance Fee responses to voluntarily cancel certain pesticide registrations. EPA intends to grant these requests at the close of the comment period for this announcement unless the Agency receives substantive comments within the comment period that would merit its further review of the requests, or unless the registrants withdraw its requests. If these requests are granted, any sale, distribution, or use of products listed in this notice will be permitted after the registrations have been cancelled only if such sale, distribution, or use is consistent with the terms as described in the final order.

**DATES:** Comments must be received on or before September 12, 2022.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2022–0544, through the *Federal eRulemaking Portal* at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

Submit written withdrawal request by mail to: Registration Division (7504M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. ATTN: Brenda Minnema.

**FOR FURTHER INFORMATION CONTACT:** Brenda Minnema, Registration Division (7504M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–2840; email address: *minnema.brenda@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this action apply to me?*

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides.

*B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/commenting-epa-dockets.*

### II. What action is the Agency taking?

This notice announces receipt by the Agency of requests from registrants to cancel 149 pesticide products registered under FIFRA section 3 (7 U.S.C. 136a) or section 24(c) (7 U.S.C. 136v(c)). These registrations are listed in sequence by registration number (or company number and 24(c) number) in Table 1 of this unit.

Unless the Agency determines that there are substantive comments that warrant further review of the requests or the registrants withdraw their requests, EPA intends to issue an order in the **Federal Register** canceling all the affected registrations.

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

| Registration No. | Company No. | Product name | Active ingredient |
|---|---|---|---|
| 100–1230 | 100 | Lambda-Cyhalothrin 5 CS Manufacturing Use Product. | lambda-Cyhalothrin. |
| 100–1238 | 100 | Scimitar GR Insecticide | lambda-Cyhalothrin. |
| 100–1239 | 100 | Lambda-CY 0.045% H&G Granule Insecticide. | lambda-Cyhalothrin. |
| 100–1273 | 100 | A14796 Insecticide | lambda-Cyhalothrin. |
| 100–1274 | 100 | A14797 Insecticide | lambda-Cyhalothrin. |
| 100–1279 | 100 | REVUS OPTI | Chlorothalonil; Mandipropamide Technical. |
| 100–1304 | 100 | Thiamethoxam 0.20/Lambda-Cyhalothrin 0.04 L&G GR. | Thiamethoxam; lambda-Cyhalothrin. |
| 100–1334 | 100 | Thiamethoxam 0.40/Lambda-cyhalothrin 0.16 ME Concentrate. | Thiamethoxam; lambda-Cyhalothrin. |
| 100–1336 | 100 | Thiamethoxam 0.010/Lambda-cyhalothrin 0.004 ME RTU. | Thiamethoxam; lambda-Cyhalothrin. |
| 100–1545 | 100 | Force 10CS Insecticide | Tefluthrin. |
| 100–1546 | 100 | Force 15CS Insecticide | Tefluthrin. |
| 100–1569 | 100 | Force CS MUP | Tefluthrin. |
| 239–2657 | 239 | Ortho Groundclear Total Vegetation Killer. | Glyphosate-isopropylammonium; Imazapyr, isopropylamine salt. |
| 239–2686 | 239 | Ground Clear RTU | Glyphosate-isopropylammonium; Imazapyr, isopropylamine salt. |
| 239–2735 | 239 | Groundclear Concentrate | Glyphosate-isopropylammonium; Imazapyr, isopropylamine salt. |
| 239–2736 | 239 | Groundclear W RTU | Glyphosate-isopropylammonium; Imazapyr, isopropylamine salt. |
| 241–331 | 241 | Pursuit Plus EC Herbicide | Imazethapyr; Pendimethalin. |
| 241–404 | 241 | Standout Herbicide | Glyphosate-isopropylammonium; Imazethapyr. |
| 241–414 | 241 | Onestep Herbicide | Glyphosate-isopropylammonium; Imazapyr, isopropylamine salt. |
| 352–556 | 352 | Dupont Matrix Herbicide | Rimsulfuron. |
| 352–571 | 352 | Dupont Basis Herbicide | Rimsulfuron; Thifensulfuron. |
| 352–589 | 352 | Dupont Canopy XL Herbicide | Chlorimuron; Sulfentrazone. |
| 352–608 | 352 | Dupont Steadfast Herbicide | Nicosulfuron; Rimsulfuron. |
| 352–649 | 352 | Dupont DPX–E9636 25DF Corn Herbicide. | Rimsulfuron. |
| 352–869 | 352 | Dupont Diligent Herbicide | Chlorimuron; Flumioxazin; Rimsulfuron. |
| 432–1550 | 432 | Velpar ULW Herbicide | Hexazinone;. |
| 499–502 | 499 | TC 241 | lambda-Cyhalothrin. |
| 499–503 | 499 | TC 240 | lambda-Cyhalothrin. |
| 524–657 | 524 | MON 88702 X MON 15985 X COT102 SI. | Bacillus thuringiensis Cry2Ab protein and the genetic material necessary for its production (vector GHBK11) in cotton; Bacillus thuringiensis Vip3Aa19 protein and the genetic material necessary for its production (vector pCOT1) in Event COT102 cotton (SYN–IR102–7); Bacillus thuringiensis var. kurstaki delta endotoxin protein as produced by the Cry1A(c) gene and its controlling sequences; Bacillus thuringiensis mCry51Aa2 protein and the genetic material necessary for its production (vector PV–GHIR508523) in MON 88702 cotton. |
| 2792–79 | 2792 | Trupick 0.7 | 1-Methylcyclopropene. |
| 2792–83 | 2792 | Trupick 2.0 | 1-Methylcyclopropene. |
| 3432–56 | 3432 | Scorch II | Lithium hypochlorite. |
| 3432–64 | 3432 | Sildate | Nanosilver 004. |
| 3432–71 | 3432 | Silspa Disinfectant | Nanosilver 004. |
| 3862–104 | 3862 | Hospital Surface Disinfectant and Deodorizer. | o-Phenylphenol (No Inert Use); 4-tert-Amylphenol. |
| 3862–177 | 3862 | Tek-Trol Disinfectant Cleaner Concentrate. | o-Phenylphenol (No Inert Use); 2-Benzyl-4-chlorophenol; 4-tert-Amylphenol. |
| 3862–180 | 3862 | Pheno-Tek II | o-Phenylphenol (No Inert Use); 2-Benzyl-4-chlorophenol; 4-tert-Amylphenol. |
| 4822–352 | 4822 | Raid Liquid Control Tip Ant and Roach Killer. | Cyfluthrin. |
| 4822–375 | 4822 | Raid Max Home Barrier Insecticide Concentrate. | Cyfluthrin. |
| 4822–376 | 4822 | Raid Powder Keg for Roaches. | Cyfluthrin. |
| 4822–383 | 4822 | Raid Fumigator G | Cyphenothrin. |
| 4822–393 | 4822 | Raid Yard Guard Concentrate | Cyfluthrin. |
| 4822–481 | 4822 | Raid Max BB | Cyfluthrin. |
| 4822–492 | 4822 | Rysn Formula 1 Insecticide | Cyfluthrin. |
| 4822–493 | 4822 | Rysn Formula 2 Insecticide | Cyfluthrin. |
| 4822–494 | 4822 | Rysn Formula 3 Insecticide | Cyfluthrin. |
| 4822–495 | 4822 | Rysn Formula 4 | Cyfluthrin. |
| 4822–496 | 4822 | Rysn Formula 5 | Cyfluthrin. |
| 4822–497 | 4822 | Rysn Formula 6 Insecticide | Cyfluthrin. |

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

| Registration No. | Company No. | Product name | Active ingredient |
|---|---|---|---|
| 4822–581 | 4822 | RWH 34 | Cyfluthrin; Prallethrin. |
| 4822–582 | 4822 | AK2C | Cyfluthrin; Piperonyl butoxide; Pyrethrins. |
| 4822–598 | 4822 | Peduncle KMP | Esfenvalerate. |
| 4822–600 | 4822 | New Orleans Aerosol | Cypermethrin; Imiprothrin. |
| 5383–113 | 5383 | Polyphase CST–1 | Carbamic acid, butyl-, 3-iodo-2-propynyl ester. |
| 7969–144 | 7969 | Frontier Herbicide | Dimethenamid. |
| 7969–147 | 7969 | Frontier 6.0 Herbicide | Dimethenamid. |
| 7969–254 | 7969 | BAS 756 00 H Herbicide | Glyphosate-isopropylammonium; Pendimethalin;. |
| 7969–264 | 7969 | BAS 555 SL Fungicide | Metconazole. |
| 7969–287 | 7969 | Triticonazole HL Fungicide Seed Treatment. | Triticonazole. |
| 7969–295 | 7969 | Charter F2 Fungicide Seed Treatment. | Metalaxyl; Triticonazole. |
| 7969–377 | 7969 | Diamir TTZ Fungicide Seed Treatment. | Triticonazole. |
| 7969–386 | 7969 | Charter Fungicide Seed Treatment. | Triticonazole. |
| 7969–387 | 7969 | Charter PB Fungicide Seed Treatment. | Thiram; Triticonazole. |
| 8033–1 | 8033 | Granular HI Chlon | Calcium hypochlorite. |
| 8033–2 | 8033 | HI–CHLON Tablet | Calcium hypochlorite. |
| 8033–7 | 8033 | HI–CHLON 65 EU | Calcium hypochlorite. |
| 8033–20008 | 8033 | HI–CHLON 65 | Calcium hypochlorite. |
| 8329–39 | 8329 | BTI Granules | Bacillus thuringiensis subspecies israelensis strain AM 65–52 solids, spores and insecticidal toxins. |
| 9198–60 | 9198 | Easy Weeder Flower and Garden Weed Preventer. | Trifluralin. |
| 9198–175 | 9198 | Anderson's Turf Fertilizer Plus Southern Weedgrass Control. | Pendimethalin. |
| 9198–199 | 9198 | TGR Winter Overseeding Enhancer. | Paclobutrazol. |
| 9688–215 | 9688 | Chemsico Herbicide Granules DN. | Dithiopyr. |
| 9688–216 | 9688 | Chemsico Herbicide Granules DN2. | Dithiopyr. |
| 9688–234 | 9688 | Pursell 3 Deep M & B Granular. | Dithiopyr. |
| 9688–267 | 9688 | Chemsico Herbicide Granules Formula D–20. | Dithiopyr. |
| 10324–99 | 10324 | Maquat 10–PD | Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12); Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14). |
| 10324–142 | 10324 | Maquat MQ2525M–14 | Alkyl* dimethyl benzyl ammonium chloride *(60%C14, 30%C16, 5%C18, 5%C12); Alkyl* dimethyl ethylbenzyl ammonium chloride *(68%C12, 32%C14). |
| 33270–26 | 33270 | Simazine 90DF | Simazine. |
| 33270–27 | 33270 | Simazine 4L | Simazine. |
| 51036–312 | 51036 | Glyphosate 4 Herbicide | Glyphosate-isopropylammonium. |
| 51036–331 | 51036 | GLY–FLO Plus | Glyphosate-isopropylammonium. |
| 51036–332 | 51036 | GLY–FLO Aquatic | Glyphosate-isopropylammonium. |
| 51036–333 | 51036 | GLY–FLO Reduced Tillage | Glyphosate-isopropylammonium. |
| 51036–334 | 51036 | GLY–FLO Sugarcane | Glyphosate-isopropylammonium. |
| 51036–336 | 51036 | GLY–FLO Forestry | Glyphosate-isopropylammonium. |
| 51036–347 | 51036 | GLY–FLO 62% SC AG | Glyphosate-isopropylammonium. |
| 91234–147 | 91234 | Glyphosate Plus | Glyphosate-isopropylammonium. |
| 93930–5 | 93930 | Avalaire PPZ 41.8 EC | Propiconazole. |
| 93930–11 | 93930 | Avalaire Diflu 2 L | Diflubenzuron. |
| AZ070002 | 524 | Bollgard II | Bacillus thuringiensis Cry2Ab protein and the genetic material necessary for its production (vector GHBK11) in cotton; Bacillus thuringiensis var. kurstaki delta endotoxin protein as produced by the Cry1A(c) gene and its controlling sequences. |
| AZ110001 | 12455 | Contrac All-Weather BLOX | Bromadiolone. |
| CA170003 | 5481 | K-Salt Fruit FIX 800 | Potassium 1-naphthaleneacetate. |
| CA170010 | 66222 | Nevado 4F | Iprodione. |
| CO050004 | 100 | Beacon | Primisulfuron-methyl. |
| CO180001 | 5481 | Parazone 3SL | Paraquat dichloride. |
| CO180002 | 5481 | Parazone 3SL | Paraquat dichloride. |
| FL030010 | 432 | Dupont Escort XP Herbicide | Metsulfuron. |
| FL040002 | 432 | Dupont Escort Herbicide | Metsulfuron. |
| GA130003 | 10163 | Malathion 8 | Malathion (No Inert Use). |

TABLE 1—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

| Registration No. | Company No. | Product name | Active ingredient |
|---|---|---|---|
| GA130004 | 10163 | Malathion 8 | Malathion (No Inert Use). |
| HI060004 | 432 | Dupont Escort XP Herbicide | Metsulfuron. |
| HI140002 | 100 | Provaunt | Fenamiphos. |
| ID000009 | 5481 | Amvac AZA 3% EC | Azadirachtin. |
| ID070003 | 66222 | Diazinon AG600 | Diazinon. |
| ID130005 | 66222 | Fanfare 2 ES Insecticide/ Miticide. | Bifenthrin. |
| ID990007 | 100 | Beacon Herbicide | Primisulfuron-methyl. |
| ID990024 | 10163 | Imidan 70–WP Agricultural Insecticide. | Phosmet. |
| IL060002 | 100 | Beacon | Primisulfuron-methyl. |
| IL150001 | 100 | Reflex Herbicide | Sodium salt of fomesafen. |
| IN110003 | 5481 | Dupont Assure II Herbicide | Quizalofop-p-ethyl. |
| KS030004 | 432 | Dupont Escort Herbicide | Metsulfuron. |
| KY140001 | 10163 | Malathion 8 | Malathion (No Inert Use). |
| LA131001 | 81880 | GWN–3061 | Halosulfuron-methyl. |
| LA170004 | 66222 | Fluensulfone 480EC | Fluensulfone. |
| ME140001 | 81880 | GWN–1715–0 | Halosulfuron-methyl. |
| ME160003 | 60063 | Echo ZN | Chlorothalonil. |
| ME161001 | 81880 | Sandea Herbicide | Halosulfuron-methyl. |
| MI170001 | 66222 | Fluensulfone 480EC | Fluensulfone. |
| MN040002 | 100 | Dual Magnum Herbicide | S-Metolachlor. |
| MN080006 | 100 | Dual Magnum | S-Metolachlor. |
| MN080010 | 81880 | Nexter | Pyridaben. |
| MN180004 | 100 | Beacon Herbicide | Primisulfuron-methyl. |
| MN200005 | 100 | Dual Magnum Herbicide | S-Metolachlor. |
| MN200006 | 100 | Reflex Herbicide | Sodium salt of fomesafen. |
| MO100005 | 67690 | Natrix | Copper carbonate, basic. |
| NE060002 | 100 | Reflex Herbicide | Sodium salt of fomesafen. |
| NJ080001 | 100 | Beacon | Primisulfuron-methyl. |
| NJ130010 | 10163 | Malathion 8 | Primisulfuron-methyl. |
| NM110002 | 524 | Bollgard II Cotton | Bacillus thuringiensis Cry2Ab protein and the genetic material necessary for its production (vector GHBK11) in cotton; Bacillus thuringiensis var. kurstaki delta endotoxin protein as produced by the Cry1A(c) gene and its controlling sequences. |
| NM170001 | 524 | COT102 X MON 15985 | Bacillus thuringiensis Cry2Ab protein and the genetic material necessary for its production (vector GHBK11) in cotton; Bacillus thuringiensis Vip3Aa19 protein and the genetic material necessary for its production (vector pCOT1) in Event COT102 cotton (SYN–IR102–7); Bacillus thuringiensis var. kurstaki strain HD73(Cry1AC (synpro)) insecticidal crystal protein and the genetic material necessary for its production in cotton. |
| NY080015 | 100 | Beacon | Primisulfuron-methyl. |
| OK190004 | 5481 | Parazone 3SL Herbicide | Paraquat dichloride. |
| OR110006 | 7969 | Finale Herbicide | Glufosinate. |
| PA070003 | 10163 | Nexter | Pyridaben. |
| PR150002 | 100 | Warrior II with Zeon Technology. | lambda-Cyhalothrin. |
| SC100003 | 67690 | Natrix | Copper carbonate, basic. |
| TX070009 | 10163 | Nexter | Pyridaben. |
| TX120010 | 100 | Gramoxone SL 2.O | Paraquat dichloride. |
| TX120013 | 241 | Prowl H2O Herbicide | Pendimethalin. |
| TX170003 | 524 | COT102 X MON 15985 | Bacillus thuringiensis Cry2Ab protein and the genetic material necessary for its production (vector GHBK11) in cotton; Bacillus thuringiensis Vip3Aa19 protein and the genetic material necessary for its production (vector pCOT1) in Event COT102 cotton (SYN–IR102–7); Bacillus thuringiensis var. kurstaki strain HD73(Cry1AC (synpro)) insecticidal crystal protein and the genetic material necessary for its production in cotton. |
| TX170004 | 10163 | Treflan HFP | Trifluralin. |
| TX170005 | 10163 | Treflan TR–10 | Trifluralin. |
| UT180010 | 5481 | Parazone 3SL Herbicide | Paraquat dichloride. |
| WA010004 | 5481 | K-Salt Fruit FIX 200 | Potassium 1-naphthaleneacetate. |
| WA040022 | 10163 | Onager Miticide | Hexythiazox. |
| WA060019 | 7173 | Rozol Pellets | Chlorophacinone. |
| WA090017 | 81880 | GWN–1715 | Halosulfuron-methyl. |
| WA130004 | 10163 | Malathion 8 | Primisulfuron-methyl. |
| WA960002 | 100 | Beacon Herbicide | Primisulfuron-methyl. |

Table 2 of this unit includes the names and addresses of record for all registrants of the products in Table 1 of this unit, in sequence by EPA company number. This number corresponds to the first part of the EPA registration numbers of the products listed in this unit.

TABLE 2—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

| EPA company No. | Company name and address |
|---|---|
| 100 | Syngenta Crop Protection, LLC, 410 Swing Road, P.O. Box 18300, Greensboro, NC 27419. |
| 239 | The Scotts Company, P.O. Box 190, Marysville, OH 43040. |
| 241 | BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709. |
| 352 | Corteva Agrosciences LLC, 9330 Zionsville Road, Indianapolis, IN 46268. |
| 432 | Bayer Environmental Science, 700 Chesterfield Parkway West, Chesterfield, MO 63017. |
| 499 | BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709. |
| 524 | Bayer CropScience LP, 800 N Lindbergh Blvd., St. Louis, MO 63141. |
| 2792 | Decco US Post-Harvest Inc., 1713 South California Avenue, Monrovia, CA 91016. |
| 3432 | N. Jonas & Co., Inc., 4520 Adams Circle, P.O. Box 425, Bensalem, PA 19020. |
| 3862 | ABC Compounding Co., Inc. P.O. Box 16247, Atlanta, GA 30321. |
| 5383 | Troy Chemical Corp., c/o. Troy Corporation, 8 Vreeland Road, Florham Park, NJ 07932. |
| 5481 | AMVAC Chemical Corporation, 4695 MacArthur Court, Suite 1200, Newport Beach, CA 92660. |
| 7173 | Liphatech, Inc., 3600 W Elm Street, Milwaukee, WI 53209. |
| 7969 | BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709. |
| 8033 | Nippon Soda Co., Ltd., 379 Thornall Street, 5th Floor, Edison, NJ 08837. |
| 8329 | Clarke Mosquito Control Products, Inc., 675 Sidwell Court, St. Charles, IL 60174. |
| 9198 | The Andersons, Inc., 1947 Briarfield Blvd, P.O. Box 119, Maumee, OH 43537. |
| 9688 | Chemsico, A Division of United Industries Corp., P.O. Box 142642, St. Louis, MO 63114. |
| 10163 | Gowan Company, 370 S Main Street, Yuma, AZ 85366. |
| 10324 | Mason Chemical Company, 9075 Centre Pointe Drive, Suite 400, West Chester, OH 45069. |
| 12455 | Bell Laboratories, Inc., 3699 Kinsman Blvd., Madison, WI 53704. |
| 33270 | Winfield Solutions, LLC, P.O. Box 64589, St. Paul, MN 55164. |
| 51036 | BASF Sparks LLC, P.O. Box 13528, Research Triangle Park, NC 27709. |
| 60063 | SIPCAM Agro USA, Inc., 2525 Meridian Pkwy., Suite 350, Durham, NC 27713. |
| 66222 | Makhteshim Agan of North America, Inc., D/B/A ADAMA, 3120 Highwoods Blvd., Suite 100, Raleigh, NC 27604. |
| 67690 | SEPRO Corporation, 11550 N Meridian Street, Suite 600, Carmel, IN 46032. |
| 81880 | Canyon Group LLC, 370 S Main Street, Yuma, AZ 85360. |
| 91234 | Atticus, LLC, 5000 Centregreen Way, Suite 100, Cary, NC 27513. |
| 93930. | Avalaire, LLC, 1204 Village Market Place, #173, Morrisville, NC 27560. |

## III. What is the Agency's authority for taking this action?

FIFRA section 6(f)(1) (7 U.S.C. 136d(f)(1)) provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be canceled. FIFRA further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. EPA will provide a 30-day comment period on the proposed requests. Thereafter, the EPA Administrator may approve such a request.

## IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation should submit such withdrawal in writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. If the products have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling.

## V. Provisions for Disposition of Existing Stocks

Existing stocks are those stocks of registered pesticide products that are currently in the United States and that were packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Because the Agency has identified no significant potential risk concerns associated with these pesticide products, upon cancellation of the products identified in Table 1 of Unit II., EPA anticipates allowing registrants to sell and distribute existing stocks of these products until January 15, 2023, or the date of that the cancellation notice is published in the **Federal Register**, whichever is later. Thereafter, registrants will be prohibited from selling or distributing the pesticides identified in Table 1 of Unit II., except for export consistent with FIFRA section 17 or for proper disposal. Persons other than registrants will generally be allowed to sell, distribute, or use existing stocks until such stocks are exhausted, provided that such sale, distribution, or use is consistent with the terms of the previously approved labeling on, or that accompanied, the canceled products.

*Authority:* 7 U.S.C. 136 *et seq.*

Dated: August 8, 2022.

**Marietta Echeverria,**

*Acting Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 2022–17310 Filed 8–11–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPPT–2014–0838; FRL–10139–01–OMS]**

## Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Assessment of Environmental Performance Standards and Ecolabels for Federal Procurement (Reinstatement)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency has submitted 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 (PRA): Assessment of Environmental Performance Standards and Ecolabels for Federal Procurement (EPA ICR Number 2516.04 and OMB Control Number 2070–0199). This is a request to reinstate a previously approved ICR. Public comments were previously requested via the **Federal Register** on March 1, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments. The ICR, a copy of which is in the docket and briefly summarized in this document, describes the covered information collection activities, along with the Agency's estimated burden and cost. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before September 12, 2022.

**ADDRESSES:** Submit your comments to EPA, referencing Docket ID No. EPA–HQ–OPPT–2014–0838, online using *https://www.regulations.gov* (our preferred method), or by mail to: Environmental Protection Agency, EPA Docket Center, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. For additional delivery options and information about EPA's dockets, visit *https://www.epa.gov/dockets.* EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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:** Katherine Sleasman, Regulatory Support Branch, Office of Chemical Safety and Pollution Prevention, 7101M, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone: (202) 566–1204; email: *sleasman.katherine@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the docket for this ICR. The docket can be viewed online at *https://www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about accessing the EPA dockets, visit *https://www.epa.gov/dockets.*

*Abstract:* This ICR, which seeks to reinstate a previously approved ICR, covers the information collection activities associated with the Agency's evaluation of private sector standards and ecolabels under the updated Framework for the Assessment of Environmental Performance Standards and Ecolabels for Federal Purchasing. EPA's goal in developing this Framework is to create a transparent, fair, and consistent approach to evaluate product environmental performance standards and ecolabels for inclusion in EPA's Recommendations of Specifications, Standards, and Ecolabels for Federal Purchasing (''Recommendations''). The Recommendations help federal purchasers identify and procure environmentally preferable products and services which in turn, help to meet their sustainability goals and requirements.

*Form Numbers:* EPA Form No. 9600–038.

*Respondents/affected entities:* Environmental performance standards developers and ecolabels.

*Respondent's obligation to respond:* Voluntary. See 15 U.S.C. 3701 and 42 U.S.C. 13103(b)(11).

*Estimated number of respondents:* 100 (total).

*Frequency of response:* On occasion.

*Total estimated burden:* 707 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $45,322 (per year), which includes an estimated cost of $0 for capital investment or maintenance and operational costs.

*Changes in the estimates:* This is a reinstatement, so there is currently no approved burden and costs. As described in more detail in the ICR, the program has been modified based on the previously approved activities associated with the 2016 pilot, including changes to the criteria/questions, Framework submission template, and the process for respondents. With this ICR, EPA is requesting approval for the average respondent burden that is estimated to be 8.5 hours per response, based on an average 12 hours for respondents that did not previously participate in the pilot and an average 5 hours for respondents that did previously participate in pilot.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2022–17386 Filed 8–11–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL OP–OFA–029]**

## Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed August 1, 2022 10 a.m. EST Through August 8, 2022 10 a.m. EST

Pursuant to 40 CFR 1506.9.

*Notice:* Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20220111, Final, USACE, WA, BP Cherry Point Dock, Review Period Ends: 09/12/2022, Contact: Daniel A. Krenz 206–316–3153.

EIS No. 20220112, Final, BLM, CA, Whitewater River Groundwater Replenishment Facility Right of Way Project, Review Period Ends: 09/12/2022, Contact: Brandon G. Anderson 760–833–7105.

EIS No. 20220113, Final, FTA, IL, Chicago Transit Authority Red Line Extension Project, Contact: Elizabeth Breiseth 312–353–4315. Under 49 U.S.C. 304a(b), FTA has issued a single document that consists of a final environmental impact statement and record of decision. Therefore, the 30-day wait/review period under NEPA does not apply to this action.

EIS No. 20220114, Draft, STB, MO, Canadian Pacific Acquisition of Kansas City Southern, Comment Period Ends: 09/26/2022, Contact: Joshua Wayland 202–245–0330.

EIS No. 20220115, Draft Supplement, NPS, FL, Big Cypress National Preserve Backcountry Access Plan, Comment Period Ends: 09/26/2022, Contact: Scott Pardue 304–535–6026.

EIS No. 20220116, Final, USFS, AZ, 4FRI Rim Country Project, Review Period Ends: 09/12/2022, Contact: Kara Kirkpatrick-Kreitinger 928–527–3600.

Amended Notice:

EIS No. 20220086, Draft Supplement, NMFS, WA, The Makah Tribe Request to Hunt Gray Whales, Comment Period Ends: 10/14/2022, Contact: Grace Ferrara 206–526–6172. Revision to FR Notice Published 07/01/2022; Extending the Comment Period from 08/15/2022 to 10/14/2022.

EIS No. 20220092, Second Draft Supplemental, DOE, AR, Long Term Management and Storage of Elemental Mercury, Comment Period Ends: 09/06/2022, Contact: Julia Donkin 202–586–5000. Revision to FR Notice Published 07/08/2022; Extending the Comment Period from 08/22/2022 to 09/06/2022.

Dated: August 8, 2022.

**Cindy S. Barger,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 2022–17359 Filed 8–11–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OAR–2022–0065; FRL–10141–01–OMS]**

### Information Collection Request Submitted to OMB for Review and Approval; Comment Request; NESHAP for Inorganic Arsenic Emissions From Primary Copper Smelters (Renewal)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), NESHAP for Inorganic Arsenic Emissions from Primary Copper Smelters (EPA ICR Number 1089.07, OMB Control Number 2060–0044), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently-approved through October 31, 2022. Public comments were previously requested, via the **Federal Register**, on April 8, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. An agency may neither conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

**DATES:** Additional comments may be submitted on or before September 12, 2022.

**ADDRESSES:** Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2022–0065, online using *https://www.regulations.gov/* (our preferred method), or by email to *docket@epa.gov;* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

For additional delivery options and information about EPA's dockets, visit *https://www.epa.gov/dockets.* EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI), or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection 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:** Muntasir Ali, Sector Policies and Program Division (D243–05), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711; telephone number: (919) 541–0833; email address: *ali.muntasir@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *https://www.regulations.gov,* or in person at the EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit: *http://www.epa.gov/dockets.*

*Abstract:* The National Emission Standards for Hazardous Air Pollutants (NESHAP) for Inorganic Arsenic Emissions from Primary Copper Smelters (40 CFR part 61, subpart O) were proposed on July 20, 1983, and promulgated on August 4, 1986. These regulations apply to existing facilities and new facilities where the total arsenic charging rate for the copper converter department averaged over a 1-year period is greater than 75 kg/hr (165 lb/hr), as determined under 40 CFR 61.174(f). New facilities include those that either commenced construction, or reconstruction, after the date of proposal. This information is being collected to assure compliance with 40 CFR part 61, subpart O.

*Form Numbers:* None.

*Respondents/affected entities:* Primary copper smelters.

*Respondent's obligation to respond:* Mandatory (40 CFR part 61, subpart O).

*Estimated number of respondents:* 3 (total).

*Frequency of response:* Quarterly, annual.

*Total estimated burden:* 6,260 hours (per year). Burden is defined at 5 CFR 1320.3(b).

*Total estimated cost:* $753,000 (per year), which includes $1,500 in annualized capital/startup and/or operation & maintenance costs.

*Changes in the Estimates:* There is an increase in burden from the most-recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. The increase is due to revisions to the labor burden associated with certain tasks including performing monthly Method 108A sample collection, calculations, and the time to record results. This ICR adjusts the burden for these activities based on comments received from industry and incorporates additional burden hours. The comments reflected additional time to complete activities and resulted in an increase in labor burden.

**Courtney Kerwin,**

*Director, Regulatory Support Division.*

[FR Doc. 2022–17395 Filed 8–11–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–R09–OAR–2022–0705; FRL–10086–01–R9]**

### Clean Air Act Grant; Hawaii Department of Health; Opportunity for Public Hearing

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed action; determination with request for comments and notice of opportunity for public hearing.

**SUMMARY:** The EPA is proposing to determine that the reduction in expenditures of recurrent non-Federal funds for the Hawaii Department of Health (HDOH) in support of its

continuing air program under section 105 of the Clean Air Act (CAA) for the fiscal year (FY) 2022 is a result of non-selective reductions in expenditures. This determination, when final, will permit the HDOH to receive grant funding for FY2023 from the EPA under section 105 of the CAA.

**DATE:** Comments and/or requests for a public hearing must be received by the EPA at the address stated below on or before September 12, 2022 .

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0705 at *https://www.regulations.gov*. For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Proprietary Business Information (PBI) or 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about PBI/CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Asia Yeary, EPA Region IX, Pacific Islands Contact Office, Prince Kuhio Federal Building, 300 Ala Moana Blvd., Suite 5–152, Honolulu, HI 96850; phone at (808) 541–2726 or email at *yeary.asia@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Section 105 of the CAA provides grant funding to air pollution control agencies for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards. In accordance with 40 CFR 35.145(a), the Regional Administrator may provide air pollution control agencies up to three-fifths of the approved costs of implementing programs for the prevention and control of air pollution. CAA section 105 grants require a cost share (also referred to as a match requirement) of 40%. Program activities relevant to the match consist of both recurring and non-recurring (unique, one-time only) expenses. In addition, air pollution control agencies must meet a maintenance of effort (MOE) requirement in accordance with section 105(c)(1) of the CAA, 42 U.S.C. 7405(c)(1).

The MOE provision requires that an eligible agency spend at least the same dollar level of funds as it did in the previous grant year for the costs of recurring activities. Specifically, section 105(c)(1) of the CAA provides that, ''No agency shall receive any grant under this section during any fiscal year when its expenditures of non-Federal funds for recurrent expenditures for air pollution control programs will be less than its expenditures were for such programs during the preceding fiscal year.'' However, pursuant to CAA section 105(c)(2), 42 U.S.C. 7405(c)(2), the EPA may still award a grant to an agency not meeting the requirements of section 42 U.S.C. 7405(c)(1), ''. . . if the Administrator, after notice and opportunity for public hearing, determines that a reduction in expenditures is attributable to a non-selective reduction in the expenditures in the programs of all Executive branch agencies of the applicable unit of Government.'' These statutory requirements are repeated in the EPA's implementing regulations at 40 CFR 35.140–35.148. The EPA issued a memorandum dated September 30, 2011, entitled ''Updated Information for Determining a Non-Selective Reduction'' with guidance to recipients on what constitutes a nonselective reduction. In consideration of the legislative history, the guidance clarified that a non-selective reduction does not necessarily mean that each executive branch agency needs to be reduced in equal proportion. However, it must be clear to the EPA, from the weight of evidence, that a recipient's CAA-related air program is not being disproportionately impacted or singled out for a reduction.

A section 105 grant recipient must submit a final federal financial report no later than 120 days from the close of its grant period that documents all of its federal and non-federal expenditures for the completed period. The recipient seeking an adjustment to its MOE for that period must provide the rationale and the documentation necessary to enable the EPA to determine that a nonselective reduction has occurred. In order to expedite that determination, the recipient must provide details of the budget action and the comparative fiscal impacts on all the jurisdiction's executive branch agencies, and the recipient's air program. The recipient needs to identify any executive branch agencies or programs that should be excepted from comparison and explain why. The recipient must provide evidence that the air program is not being singled out for a reduction or being disproportionately reduced. Documentation in key areas will be needed: budget data specific to the recipient's air program; and comparative budget data between the recipient's air program, the agency containing the air program, and the other executive branch agencies. The EPA may also request information from the recipient about how impacts on its program operations will affect its ability to meet its CAA obligations and requirements, and documentation that explains the cause of the reduction, such as legislative changes or the issuance of a new executive order.

In FY2021, the EPA awarded the HDOH $781,332, which represented approximately 29% of the HDOH budget. In FY2022, the EPA awarded the HDOH $884,194, which represented approximately 31% of the HDOH budget.

HDOH's final federal financial report for FY2021 indicated that HDOH's MOE level was $1,918,582. HDOH expects their FY2022 expenditures to be approximately $1,645,864, which indicates that HDOH's expenditures of non-federal funded recurring activities is not sufficient to meet the MOE requirements for FY2022 under section 105 of the CAA because it is not equal to or greater than the MOE for the previous fiscal year.

The EPA must make a determination (after notice and an opportunity for a public hearing) that the reduction in expenditures from 2021 to 2022 is attributable to a non-selective reduction in the expenditures in the programs of all executive branch agencies of Hawaii's State government.

The HDOH is a department organizationally within the Hawaii State government, which is the unit of government for CAA section 105(c)(2) purposes.

On July 5, 2022, the HDOH submitted a request to the EPA seeking a reduction for the required MOE for FY2022 due to a non-selective reduction in expenditures. The HDOH explained that it will be unable to meet its MOE

requirement due to the significant economic and health impacts from the COVID pandemic. This reduction in recurring expenditures is the result of HDOH experiencing significant payroll changes impacting its overall budget. Not only are senior level employees retiring, with some positions filled by entry level staff at lower starting salaries, other positions remain vacant due to the conditions caused by the COVID–19 pandemic.

HDOH explained that the reduction is non-selective because the air program is not being disproportionately impacted or singled out as the reduction of expenditures due to increased vacancies and inability to replace staff is occurring throughout the State government, and not exclusively to the air program. Hawaii is currently experiencing one of the highest rates of out-migration of its work-age population. State agencies have lost staff and have struggled to hire new staff to replace them.

The vacancy data provided by Hawaii's Department of Human Resources Development (DHRD) and HDOH's Human Resources (HR) shown below supports the requested MOE reduction by demonstrating that a non-selective reduction in the expenditures of all executive branch agencies has occurred. The air program's vacancy rate increased by 3.23%, from 27.42% in 2021 to 30.65% in 2022 and the majority of HDOH's environmental programs' vacancy rates also increased anywhere from 1.69% to 30.95% during this same time frame. In line with the air program and the other environmental program vacancy increases, the vacancy rate for the entire HDOH (which contains the air program and other environmental programs) increased by 3.88% (from 17.38% to 21.25%) during this period. Overall statewide (executive branch agencies) position vacancy rates showed an even larger increase of 7.88% from 2021 to 2022. Trends in the HDOH and executive branch agency data show steady increases in vacancy rates with the largest increase occurring over the last year. The air program's vacancy rate increase of 3.23% is slightly smaller than the HDOH's increase of 3.88% and less than half of the executive branch agency increase of 7.88% over the past year.

The EPA proposes to find that the request for a reset of HDOH's MOE meets the requirements for a non-selective reduction under CAA section 105. The HDOH's reduction in personnel expenses and significant cut back on expenditures caused by the COVID–19 pandemic contributed to the reduction in expenditures.

The EPA proposes that the MOE for HDOH's FY2022 CAA section 105 grant be reduced to $1,645,864 to address the non-selective reduction of recurrent expenditures discussed above.

This notice constitutes a request for public comment and an opportunity for public hearing as required by the CAA. All written substantive comments received by September 12, 2022 on this proposal will be considered. The EPA will conduct a public hearing on this proposal only if a written request for such is received by the EPA by September 12, 2022. If no written request for a hearing is received or if the EPA determines that the issues raised are insubstantial, the EPA will proceed to reduce HDOH's MOE for FY2022.

Dated: August 9, 2022.

**Elizabeth Adams,**

*Director, Air and Radiation Division, Region IX.*

[FR Doc. 2022–17481 Filed 8–11–22; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OLEM–2022–0611; FRL–10127–01–OLEM]**

### The Hazardous Waste Electronic Manifest (e-Manifest) System Advisory Board; Notice of Public Meeting

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**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: ''Roadmap to 100% Electronic Manifests'').

**DATES:** *Virtual Public Meeting:* The meeting will be held October 4–6, 2022, from 10:00 a.m. to approximately 6:00 p.m. (EDT). See the additional details and instructions for registration that appear in sIII of this notice.

**ADDRESSES:** This public meeting will be conducted virtually. Registration online is required to attend and/or provide oral public comment during this 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 as either a public audience attendee or as an oral public commenter. For additional instructions related to this meeting, see section III of this notice.

*Comments:* To make oral comments during the public meeting and be included on the meeting agenda, please register by noon on September 27, 2022. 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.* Submit written comments on or before September 27, 2022, in the public docket under Docket number EPA–HQ–OLEM–2022–0611 at *http://www.regulations.gov.* Written comments submitted to the public docket on or before September 27, 2022, will be provided to the e-Manifest Advisory Board for their consideration before the meeting. Anyone who wishes to submit comments after September 27, 2022, 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 III of this notice.

*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: 202–564–0344.

**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, and registration is required to attend and/or participate. 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 EPA needs to make subsequent changes to this meeting, EPA will post future notices to its e-Manifest Board meeting website (*https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board.*).

EPA 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 Establishment (e-Manifest) Act.

### *B. Where can I access information about the e-Manifest Advisory Board and this meeting?*

Information about the e-Manifest Advisory Board is available on the e-Manifest Advisory Board website, *https://www.epa.gov/e-manifest/hazardous-waste-electronic-manifest-system-e-manifest-advisory-board.* Information about this meeting will be available by early September 2022 in the public docket, identified by docket ID number EPA–HQ–OLEM–2022–0611, at *https://www.regulations.gov* and on the e-Manifest Advisory Board website. You may also subscribe to the following listserv for alerts when notices regarding this and other e-Manifest Advisory Board related activities are published: *eManifest-subscribe@lists.epa.gov.*

## II. Background

### *A. Purpose of the e-Manifest Advisory Board*

The Hazardous Waste Electronic Manifest (e-Manifest) System Advisory Board is established in accordance with the provisions of the Hazardous Waste Electronic Manifest Establishment 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 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 Special Government Employees or Representatives.

### *B. Public Meeting*

EPA launched the e-Manifest system on June 30, 2018. 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.

Since system inception through May 2022, EPA has received roughly 25 thousand electronic manifests (both fully electronic and hybrid manifests) out of a total of approximately 7 million manifests. Electronic manifests thus represent less than a half of a percent of manifests received by EPA. EPA seeks to dramatically increase this percentage.

EPA hosted two virtual public meetings on October 27, 2021, and November 3, 2021, to discuss how to increase electronic adoption and solicit feedback from stakeholders. The meetings described existing electronic manifest functionality and the feasibility of several options to increase use of electronic manifests. As a next step in this effort, EPA will convene its next public meeting of the e-Manifest System Advisory Board from October 4–6, 2022. The meeting will include discussion of the comments EPA received from the public meetings, as well as related policy and technical changes EPA is considering for the e-Manifest system to increase adoption of electronic manifests. The general purpose of this meeting is for the Board to advise the Agency on these potential changes.

### *C. e-Manifest Advisory Board Documents and Meeting Minutes*

The meeting background paper along with related supporting materials including the 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 early-September 2022. In addition, EPA 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–2022–0611 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 EPA 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–2022–0611.

## III. Public Participation Instructions

To participate in the virtual public meeting, please follow the instructions in this section.

### *A. How can I provide comments?*

1. *Written comments.* EPA encourages the electronic submission of written comments via *http://www.regulations.gov,* into docket ID number EPA–HQ–OLEM–2022–0611 on or before September 27, 2022, 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 27, 2022, should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Copyrighted material will not be posted without explicit permission of the copyright holder. 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. Members of the public should also be aware that their personal contact information, if included in any written comments, may be posted on the internet at *https://www.regulations.gov.*

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, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*When preparing and submitting your comments, see Tips for Effective Comments at the same website, *https://www.epa.gov/dockets/commenting-epa-dockets.*

2. *Oral comments.* The Agency encourages each individual or group wishing to make brief oral comments to the e-Manifest Advisory Board during the virtual public meeting 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 27, 2022, in order to be included on the meeting agenda. 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. Anyone submitting an oral public comments request after September 27, 2022, should also contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**. 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.

Dated: August 9, 2022.

**Jody Barringer,**

*Acting Director, Office of Resource Conservation and Recovery.*

[FR Doc. 2022–17401 Filed 8–11–22; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[FR ID 100048]**

### Federal Advisory Committee Act; Communications Security, Reliability, and Interoperability Council

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (Commission) Communications Security, Reliability, and Interoperability Council (CSRIC) VIII will hold its fifth meeting on September 21, 2022 at 1 p.m. EDT.

**DATES:** September 21, 2022.

**ADDRESSES:** The Meeting will be held via conference call and available to the public via WebEx at *http://www.fcc.gov/live.*

**FOR FURTHER INFORMATION CONTACT:** Suzon Cameron, Designated Federal Officer, Federal Communications Commission, Public Safety and Homeland Security Bureau, (202) 418–1916 or email: *suzon.cameron@fcc.gov,* or Kurian Jacob, Deputy Designated Federal Officer, Federal Communications Commission, Public Safety and Homeland Security Bureau, (202) 418–2040 or email: *kurian.jacob@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** The meeting on September 21, 2022, at 1 p.m. EDT, will be held electronically only and may be viewed live, by the public, at *http://www.fcc.gov/live.* Any questions that arise during the meeting should be sent to *CSRIC@fcc.gov* and will be answered at a later date. The meeting is being held in a wholly electronic format in light of the ongoing COVID–19 pandemic and in an abundance of caution.

The CSRIC is a Federal Advisory Committee that will provide recommendations to the Commission to improve the security, reliability, and interoperability of communications systems. On June 30, 2021, the Commission, pursuant to the Federal Advisory Committee Act, renewed the charter for CSRIC VII for a period of two years through June 29, 2023. The meeting on September 21, 2022, will be the fifth meeting of CSRIC VIII under the current charter. The Commission will provide audio and/or video coverage of the meeting over the internet from the FCC's web page at *http://www.fcc.gov/live.* The public may submit written comments before the meeting to Suzon Cameron, CSRIC VIII Designated Federal Officer, by email to *CSRIC@fcc.gov.*

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the Commission can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted but may be impossible to fill.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2022–17373 Filed 8–11–22; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[OMB 3060–0960; FR ID 100583]**

### Information Collection Being Submitted for Review and Approval to Office of Management and Budget

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, 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. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

**DATES:** Written comments and recommendations for the proposed information collection should be submitted on or before September 12, 2022.

**ADDRESSES:** Comments should be sent 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. Your comment must be

submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

**SUPPLEMENTARY INFORMATION:** The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

*OMB Control Number:* 3060–0960.

*Title:* 47 CFR 76.122, Satellite Network Non-duplication Protection Rules; 47 CFR 76.123, Satellite Syndicated Program Exclusivity Rules and 47 CFR 76.124, Requirements for Invocation of Non-duplication and Syndicated Exclusivity Protection.

*Form Number:* Not applicable.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents and Responses:* 1,428 respondents and 9,806 responses.

*Estimated Time per Response:* 0.5–1 hour.

*Frequency of Response:* On occasion reporting requirement; Third party disclosure requirement.

*Total Annual Burden:* 9,352 hours.

*Total Annual Costs:* No costs.

*Obligation to Respond:* Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i), 4(j), 303(r), 339 and 340 of the Communications Act of 1934, as amended.

*Needs and Uses:* The information collection requirements contained in 47 CFR 76.122, 76.123 and 76.124 are used to protect exclusive contract rights negotiated between broadcasters, distributors, and rights holders for the transmission of network syndicated in the broadcasters' recognized market areas. Rule sections 76.122 and 76.123 implement statutory requirements to provide rights for in-market stations to assert non-duplication and exclusivity rights.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary, Office of the Secretary.*

[FR Doc. 2022–17394 Filed 8–11–22; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

**[ET Docket 19–138, DA 22–617; FR ID 92522]**

## Public Safety and Homeland Security Bureau Seeks Comment on Waiver Requests From Intelligent Transportation System Licensee to Use C–V2X Technology in the 5.895–5.925 GHz Band

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this Public Notice, the Public Safety and Homeland Security Bureau (Bureau) seeks comment on the filings from the respective Departments of Transportation of the State of Florida and State of Georgia, and State of Maryland State Highway Administration, each requesting a waiver of the Commission's rules to operate roadside units (RSUs) with cellular vehicle to everything (C–V2X)-based technology in the upper 30 megahertz (5.895–5.925 GHz) portion of the 5.850–5.925 GHz (5.9 GHz) band under its Part 90 intelligent transportation system (ITS) license.

**ADDRESSES:** Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

**DATES:** Comments are due on or before September 12, 2022 and reply comments are due on or before October 11, 2022.

**FOR FURTHER INFORMATION CONTACT:** Roberto Mussenden, Senior Attorney, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at *Roberto.Mussenden@fcc.gov* or (202)–418–1428.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Public Notice,* DA 22–617, released on June 7, 2022. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, 45 L Street NE, Washington, DC 20554. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY). Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See *FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy,* Public Notice, DA 20–304 (March 19, 2020) *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy*. During the time the Commission's building is closed to the general public and until further notice.

*Synopsis.* By this Public Notice (PN), the Public Safety and Homeland Security Bureau (Bureau) seeks comment on the filings from the respective Departments of

Transportation of the State of Florida and State of Georgia, and State of Maryland State Highway Administration, each requesting a waiver of the Commission's rules to operate roadside units (RSUs) with cellular vehicle to everything (C–V2X)-based technology in the upper 30 megahertz (5.895–5.925 GHz) portion of the 5.850–5.925 GHz (5.9 GHz) band under its Part 90 intelligent transportation system (ITS) license. These waiver requests seek operating authority for C–V2X through the streamlined waiver process described by the Commission in its November 20, 2020 *5.9 GHz First Report and Order* and the guidance that the Bureau, in conjunction with the Wireless Telecommunications Bureau (the Bureaus), provided in a subsequent Public Notice, as directed by the Commission.

*Guidance PN.* Based on the decisions in the *5.9 GHz First Report and Order,* and until the Commission renders a decision on the rule changes proposed in the *Further Notice of Proposed Rulemaking,* the Commission stated that it will permit any existing or future part 90 intelligent transportation system (ITS) licensee to operate C–V2X-based roadside units in the 5.895–5.925 GHz band within their geographic licensing areas by requesting and obtaining a waiver of the Commission's rules, subject to specific conditions. On August 6, 2021, the Bureaus jointly issued the *Guidance PN* detailing the process for such waiver applicants, and providing additional information regarding further waivers that may be required for requesting early deployment of certain other C–V2X operations, and the equipment certification process for C–V2X equipment.

*Streamlined Waiver Process for Part 90 Licensees.* In the *Guidance PN,* the Bureaus stated *inter alia,* that in order to receive streamlined consideration of a waiver request, consistent with Section 1.925 of the Commission's rules, applicants would need to provide the following certifications:

(1) a certification that there are no existing ITS licensees authorized to operate within the same geographic area in which the waiver applicant seeks to operate, OR certification that the waiver applicant has coordinated with every existing ITS licensee licensed (in whole or part) within that same geographic area to ensure that the waiver applicant's C–V2X-based roadside unit operations will not interfere with any Dedicated Short Range Communications (DSRC)-based roadside units operating in the 5.895–5.925 GHz band;

(2) a certification that the waiver applicant's C–V2X operations will comply with the existing technical rules (*e.g.,* including, but not limited to, power and out-of-band emission limits) for DSRC-based technologies other than the portion of the current rules requiring use of DSRC-based technologies;

(3) a certification that the applicant's operations will be revised to the extent necessary to comply with any final rules that the Commission adopts for C–V2X operations; and

(4) a certification that the applicant's C–V2X operations will be limited to transportation and vehicle safety-related communications.

*General Waiver Process for Part 90 Licensees.* Regarding licensees unable to satisfy the streamlined waiver process, in the *Guidance PN,* the Bureaus stated that:

''If an ITS waiver applicant that seeks authority to operate C–V2X-based roadside units or on-board units in the 5.895–5.925 GHz band is unable to comply with the existing ITS technical rules found in 47 CFR 90.371–90.383 or 47 CFR 95.3167–95.3189, respectively, they should include in their general waiver request the certifications from the streamlined waiver process outlined in this PN that they are unable to meet, the specific existing rules that they are unable to comply with, along with a specific proposal of the technical specifications they seek to use instead, and an explanation of why a waiver is warranted under Section 1.925. To facilitate granting of qualifying waiver requests, and in light of the alternate technical specifications proposed in their waiver, we would generally expect the ITS waiver applicant to include a demonstration showing that their requested waiver would not cause a greater potential for interference to other users operating in the 5.895–5.925 GHz band than DSRC-based operations in this band, and otherwise to address how the public interest would be served by such a waiver under Section 1.925. Based on the proposed change in technical parameters, the waiver request should also address any conditions (*e.g.,* coordination zone radius, per 47 CFR 90.371(b)) necessary to protect Federal Government Relocation Services.''

*Equipment Certification Guidance.* The Bureaus' *Guidance PN* discussed the need for additional waivers of the FCC's equipment authorization rules to allow for C–V2X on-board units. As noted in the *Guidance PN,* the applicant for equipment certification should identify the specific technical requirements that the C–V2X equipment would meet. In the *Guidance PN,* the Bureaus said:

''The applicant for equipment certification should identify the specific technical requirements that the C–V2X equipment would meet, and explain how those specific technical requirements would be consistent with the associated waiver(s) granted for operation of C–V2X systems in the 5.895–5.925 GHz band. To the extent that the request for waiver of equipment authorization rules to authorize C–V2X-based roadside units or on-board units differs in any respect from the technical rules specified in the Part 90 or Part 95 waiver(s), the application for waiver may require more extensive review, consistent with current practice relating to waiver of equipment authorization rules.''

*The Waiver Requests and Supplemental Information.* As noted above, the respective state entities each filed an initial request for waiver, and each has subsequently supplemented its request with additional information in support of their requests. Commenters should review each of these requests and supplemental materials for purposes of commenting. Among other things, each state has provided particular technical information on its proposed C–V2X operations. We provide a high-level summary of that information below.

PROPOSED TECHNICAL SPECIFICATIONS IN 5.9 GHZ BAND C–V2X WAIVER REQUESTS

| | Current 5.9 GHz ITS requirements (Part 90 Subpart M) | FL DOT waiver request to deploy 4G–LTE C–V2X (call sign WQBS407) | GA DOT waiver request to deploy LTE C–V2X (3GPP Rel. 14) (call sign WRAT914) | MDOT SHA waiver request to deploy 4G–LTE C–V2X (call sign WRKJ514) |
|---|---|---|---|---|
| Maximum Roadside Unit (RSU) Transmitter Output Power (dBm). | RSU Classes C/D: 20/28.8 | Ch. 180: 17; Ch. 181: 17; Ch. 182: 17; Ch. 184: 28.8. | Ch. 180: 22; Ch. 181: 22; Ch. 182: 22; Ch. 184: 22;<br>5905–5925 MHz: Not given. | Ch. 180: 23; Ch. 181: 23; Ch. 182: 23.<br>5905–5925 MHz: Not given. |
| Maximum RSU EIRP* (dBm). | Ch. 180: 23; Ch. 181: 23; Ch. 182: 23; Ch. 184: 33/40. | Ch. 180: 23; Ch. 181: 23; Ch. 182: 23; Ch. 184: 34.8. | Ch. 180: 23/22.8; Ch. 181: 23/22.8; Ch. 182: 23/22.8; Ch. 184: 23/22.8;<br>5905–5925 MHz: 23/22.8 | Ch. 180: 22.6; Ch. 181: 22.6; Ch. 182: 22.6.<br>5905–5925 MHz: 33. |
| Transmit Spectrum Mask (Out-of-Band Emissions (OOBE)). | See Table I.8 of IEEE 802.11p–2010. | Stated will comply with existing rules. | Stated will comply with existing rules. | Stated will comply with existing rules. See table below for 5905–5925 MHz. |
| RSU Antenna Center Line Height Above Roadway Surface. | 8 meters or less, with EIRP reduced by a factor of 20 x log(height/8) if antenna center line height is 15 meters or less (but greater than 8 meters). | 7.9 meters above ground level (AGL) at all locations. | Less than 8 meters AGL at 114 locations; 8.2 meters AGL at one location with reduced EIRP per 47 CFR § 90.377(b) n.1 to Table. | 8 meters AGL (One location specified in ULS waiver application). |
| Maximum Onboard Unit (OBU) Transmitter Output Power/EIRP (dBm). | Portable: 0/6 .....<br>Non-portable: 28.8/33 for non-gov., 44.8 for gov. | Not given ..... | Waiver request does not include any OBU deployments. | 20/33. |

* EIRP (equivalent isotropically radiated power); ** PSD (power spectral density).

MDOT SHA WAIVER REQUEST TO DEPLOY 4G–LTE C–V2X TRANSMIT SPECTRUM MASK (OUT-OF-BAND EMISSIONS (OOBE)) AT 5905–5925 MHZ

| Frequency offset from channel edge (MHz) | OOBE PSD offset relative to 33 dBm/20 MHz (or 10 dBm/100 MHz) | OOBE PSD for C–V2X transmissions (dBm/100 kHz) |
|---|---|---|
| 0.0 ..... | −26 | −16 |
| 1.0 ..... | −32 | −22 |
| 10.0 ..... | −40 | −30 |
| 20.0 ..... | −50 | −40 |

*Public Comment on Waivers.* Prior to evaluating the merits of the instant requests for waivers, and in order to assist in assessing the requests, the Bureau seeks comment on whether the certifications, as supplemented, in the *Waivers* are sufficient to allow the Bureau to make a rigorous evaluation of the requests under the streamlined review process. Under the general waiver process, we seek comment on whether the waiver requests as supplemented contain sufficient information to satisfy the additional requirements set forth in the *Guidance PN* at footnote 10, referenced above, including whether the proposed C–V2X operations would protect others from interference. In addition, we seek comment from manufacturers on equipment authorizations to support the proposed operations in the instant waiver requests.

*Procedural Matters.* To develop a complete record on the issues presented by this request, the proceeding will be treated, for *ex parte* purposes, as a ''permit-but-disclose'' proceeding in accordance with Section 1.1200(a) of the Commission's rules, subject to the requirements under Section 1.1206(b). Parties should file all comments and reply comments in ET Docket No. 19–138 and clearly indicate to which of the three waivers identified in this *Public Notice* the comments apply (*i.e.,* Florida Department of Transportation, Georgia Department of Transportation, or Maryland State Highway Administration).

*Filing Requirements.* Parties may file comments, identified by ET Docket No. 19–138, by any of the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.

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

- Commercial deliveries (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service First-Class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020).
- During the time the Commission's building is closed to the general public and until further notice, if more than one docket or rulemaking number appears in the caption of a proceeding, paper filers need not submit two additional copies for each additional docket or rulemaking number; an original and one copy are sufficient.

*People with Disabilities:* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Government Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2022–17378 Filed 8–11–22; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL RESERVE SYSTEM

### Privacy Act of 1974; System of Records

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Notice of a modified system of records.

**SUMMARY:** Pursuant to the provisions of the Privacy Act of 1974, notice is given that the Board of Governors of the Federal Reserve System (Board) proposes to modify an existing system of records, entitled BGFRS–37, ''FRB—Electronic Applications.'' This system enables bank holding companies (BHCs), savings and loan holding companies (SLHCs), state member banks, and foreign banks with operations in the United States, or other companies, and persons to submit an application or notice to the Federal Reserve System for approval or non-objection, as appropriate, to conduct certain transactions or engage in certain activities.

**DATES:** Comments must be received on or before September 12, 2022. This modified system of records will become effective September 12, 2022, without further notice, unless comments dictate otherwise.

The Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act, requires a 30-day period prior to publication in the **Federal Register** in which to review the system and to provide any comments to the agency. The public is then given a 30-day period in which to comment, in accordance with 5 U.S.C. 552aI(4) and (11).

**ADDRESSES:** You may submit comments, identified by *BGFRS–37,* ''*FRB—Electronic Applications*'' by any of the following methods:

- *Agency website: https://www.federalreserve.gov.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include SORN name and number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

All public comments will be made available on the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove sensitive personally identifiable information. Public comments may also be viewed electronically and in-person in Room M–4365A, 2001 C St. NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. during federal business weekdays.

**FOR FURTHER INFORMATION CONTACT:** David B. Husband, Senior Counsel, (202) 530–6270, *582aishvid.b.husband@frb.gov;* Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunication relay services.

**SUPPLEMENTARY INFORMATION:** The Board is modernizing the electronic applications system and its filing process by permitting external filers to file applications, notices, requests for determinations, and other applications-related inquiries submitted by filers electronically through a paperless application process. The Board is moving to a cloud-based system (Fed EZ File) for use by the Board and the Federal Reserve Banks, acting pursuant to authority delegated by the Board (collectively, ''FRS''). FRS staff will use Fed EZ File to create, review, store, and retrieve information, including information obtained from individuals, financial institutions, and other business organizations, or their authorized representatives (collectively, ''filers''), in connection with applications, notices, requests for determinations, and other applications-related inquiries submitted by filers to the FRS (collectively, ''filings''). These transactions and activities include, for example, acquisitions by a BHC or SLHC, bank mergers, non-bank acquisitions or new activities, BHC or SLHC formations, financial holding company elections, branch establishments, changes in bank control, community development and public welfare investments, and the appointment of directors or senior executive officers by a BHC, SLHC, or bank. This system will also enable FRS staff to request additional information, view business and supervisory information from various entities as needed, act on the filing, and deliver official and related correspondence. FRS staff will also manually input paper-based filings received by the FRS into the EZ File system for the above purposes.

Accordingly, the Board is revising the SORN in order to incorporate the move to a new cloud-based system and generally update the SORN since its last revision. In particular, the Board is making changes to the purpose, authority, category of individuals, category of records, and the routine uses sections. The Board has clarified the intended purpose of the system and expanded the category of individuals to also include public commenters on filings more accurately. The Board has provided greater specificity to the category of records section by identifying in greater detail some of the information types included in typical filings.

The Board is also amending the system-specific routine use to permit the sharing of the information covered by this system of records with other financial institution regulatory agencies as necessary on a confidential basis consistent with explicit information sharing agreements, rather than for regulatory comment purposes only, because the Board works with those agencies on supervisory and regulatory matters beyond those focused on regulatory comments. The Board is also eliminating the reference to ''thrift regulatory agencies'' in the phrase ''other bank and thrift regulatory agencies'' as outdated because the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act, Pub. L. 111–203, 124 Stat. 1376 (2010)) dissolved the Office of Thrift Supervision and replacing ''bank'' with ''financial institution.'' Thus, the Board proposes to revise the system-specific routine use to read: ''to disclose certain information to other financial institution regulatory agencies pursuant to explicit information sharing agreements.''

In the authority section, the Board is revising the list of authorities to include additional statutes and regulations that authorize the Board to receive filings from external parties and to reflect statutory changes since the SORN's last issuance in 2008. In particular, the Dodd-Frank Act was passed in 2010 and made substantial changes to banking laws and regulations, which affected the authorities for this system of records. For example, section 311 of Dodd-Frank transferred authority to supervise and regulate SLHCs from the Office of Thrift Supervision to the Board. Accordingly, the Board is adding the Home Owners' Loan Act, as well as the Board's implementing Regulations LL and MM, which authorize the Board to receive filings from SLHCs as authorities. Similarly, the Board is adding to the authorities section 167 of the Dodd-Frank Act and the Board's implementing Regulation YY, which required certain foreign banking organizations to create a U.S.

intermediate holding company for which foreign banking organizations may request relief pursuant to section 252.153(c) of Regulation YY. Lastly, the Board is also adding section 163(b) of the Dodd-Frank Act, which required certain large BHCs and nonbank financial companies supervised by the Board to provide written notice before making certain acquisitions of large nonbanking entities.

The Board is also revising the list of legal authorities to include those which were inadvertently omitted from or incorrectly cited in the previous SORN. This includes adding corrected references to the U.S. Code provisions corresponding to sections 9, 19, and 25 of the Federal Reserve Act, concerning state banks as members of the Federal Reserve System; bank reserves; and foreign branches of domestic banks, respectively. In addition, the Board is revising the legal authority section to include other statutory provisions under which the Board receives filings, including sections 23A and 23B of the Federal Reserve Act and the Board's implementing Regulation W, concerning depository institutions' relations and transactions with affiliates, and section 24A, concerning investments in bank premises. Further, the Board is revising the legal authorities to include sections 8, 18(c), 19, 32, and 44 of the Federal Deposit Insurance Act, concerning termination of insured depository institution status; bank merger transactions; participation in banking by individuals convicted of, or who have entered into a pretrial diversion or similar program for, certain crimes; changes in directors and senior executive officers of insured depository institution holding companies; and interstate bank mergers, respectively. The Board has also added references to other relevant authorizing banking statutes, such as the Foreign Bank Supervision Enhancement Act and the Depository Institution Management Interlocks Act.

The Board is also updating the contact information for the system manager, the record source categories, the system location information, and the policies and practices for storage, retrieval, and retention of records.

The Board is also making technical changes to BGFRS–37 consistent with the template laid out in OMB Circular No. A–108. Accordingly, the Board has made technical corrections and non-substantive language revisions to the following sections: ''Policies and Practices for Storage of Records,'' ''Policies and Practices for Retrieval of Records,'' ''Policies and Practices for Retention and Disposal of Records,'' ''Administrative, Technical and Physical Safeguards,'' ''Record Access Procedures,'' ''Contesting Record Procedures,'' and ''Notification Procedures.'' The Board has also created the following new sections: ''Security Classification'' and ''History.''

**SYSTEM NAME AND NUMBER:**

BGFRS–37, ''FRB—Electronic Applications.''

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW Washington, DC 20551. Some data will be hosted by third-party vendors, in government clouds managed by BOX in Nevada and California, Appian in Ohio, and OneSpan in Virginia and Ohio.

**SYSTEM MANAGER(S):**

Vaishali Sack, Designated Agency Applications Official, Supervision and Regulation Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551, 202–452–5221, *586586aishaliali.d.sack@frb.gov.*

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Sections 9, 19, 23A, 23B, 24A, 25, and 25A of the Federal Reserve Act (12 U.S.C. 321–338a, 461–506, 371c, 371c–1, 371(d), 601–605, and 611–631); the Change in Bank Control Act (12 U.S.C. 1817(j)); Sections 8, 18(c), 19, 32, and 44 of the Federal Deposit Insurance Act (12 U.S.C. 1818, 1828(c), 1829, 1831i, and 1831(u)); the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*); Section 5 of the Bank Service Company Act (12 U.S.C. 1865); the International Banking Act of 1978, as amended (12 U.S.C. 3101 *et seq.*) and the Foreign Bank Supervision Enhancement Act (12 U.S.C. 3101 note); the Depository Institution Management Interlocks Act (12 U.S.C. 3201 *et seq.);* the Home Owners' Loan Act (12 U.S.C. 1465–1468); Sections 163(b) and 167 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5363(b) and 5367); the Board's Regulation H (12 CFR part 208); Regulation K (12 CFR part 211); Regulation L (12 CFR part 212); Regulation W (12 CFR part 223); Regulation Y (12 CFR part 225); Regulation LL (12 CFR part 238); Regulation MM (12 CFR part 239); Regulation YY (12 CFR part 252); and Executive Order 9397.

**PURPOSE(S) OF THE SYSTEM:**

These records are collected and maintained to assist the Board and the Federal Reserve Banks (collectively, ''FRS'') in evaluating whether individuals, financial institutions, and other business organizations meet the applicable statutory and regulatory factors that are required to be considered in a particular filing.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons who are parties to regulatory filings submitted to the FRS, and public commenters to such submissions.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

In connection with their role in filings, individuals provide information, which may include, but is not limited to the following: name (including former names and/or nicknames); contact information such as telephone number, email address, etc.; address (home, business, and/or mailing); citizenship information, including place and date of birth; and/or citizenship status; government-issued identification, such as driver's license number, Social Security number, passport number and/or alien registration number, and/or taxpayer identification number; occupation and employment history; financial and credit information (including credit history); education and professional credentials; information about compliance with applicable laws and regulations, criminal history, and involvement with court proceedings; and related organizations. In addition, submissions from members of the public may contain unsolicited personally identifiable information (''PII'') (such as bank account information or social security numbers) even though such PII is not required for the individual to provide comments or feedback.

**RECORD SOURCE CATEGORIES:**

The information is submitted by individual filers, certain employees, officers, directors, or shareholders of financial institutions or other business organizations, representatives of individual or institutional filers, Federal and state banking regulators, state insurance regulators, and members of the public. FRS staff may also provide information to obtain access to the system. FRS staff may also independently obtain information regarding filers from publicly available sources.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

General routine uses A, B, C, D, G, I, and J apply to this system. These general routine uses are located at *https://www.federalreserve.gov/files/SORN-page-general-routine-uses-of-board-systems-of-records.pdf* and are published in the **Federal Register** at 83 FR 43872 at 43873–74 (August 28, 2018). These records may also be used to disclose certain information to other financial institution regulatory agencies pursuant to explicit information sharing agreements.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

Paper records are stored in locked file cabinets with access limited to staff with a need to know until the paper records have been scanned and stored electronically. Electronic records will be stored at the Board and by third-party vendors in FedRAMP approved government cloud storage solutions.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records can be searched for and retrieved by authorized staff only, by every data field on a record, and by the contents of each record. Access to records is limited to those persons whose official duties require it.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained for 60 days within the system and then transferred to the Board's electronic recordkeeping system. Records are retained in the Board's electronic recordkeeping system for 15 years, then destroyed when no longer needed for reference.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

The system has the ability to track individual user actions within the system. The audit and accountability controls are based on NIST and Board standards, which are based on applicable laws and regulations. The controls assist in detecting security violations and performance or other issues in the system. Access to the system is restricted to authorized users within the FRS who require access for official business purposes. Users are classified into different roles and common access and usage rights are established for each role. User roles are used to delineate between the different types of access requirements such that users are restricted to information that is required in the performance of their duties. Periodic assessments and reviews are conducted to determine whether users still require access, have the appropriate role, and whether there have been any unauthorized changes. Records are encrypted at rest and in transmission.

**RECORD ACCESS PROCEDURES:**

The Privacy Act allows individuals the right to access records maintained about them in a Board system of records. Your request for access must: (1) contain a statement that the request is made pursuant to the Privacy Act of 1974; (2) provide either the name of the Board system of records expected to contain the record requested or a concise description of the system of records; (3) provide the information necessary to verify your identity; and (4) provide any other information that may assist in the rapid identification of the record you seek.

The Board handles all Privacy Act requests as both a Privacy Act request and as a Freedom of Information Act request. The Board does not charge fees to a requestor seeking to access or amend his/her Privacy Act records.

You may submit your Privacy Act request to the: Secretary of the Board, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

You may also submit your Privacy Act request electronically by filling out the required information at: *https://foia.federalreserve.gov/.*

**CONTESTING RECORD PROCEDURES:**

The Privacy Act allows individuals to seek amendment of information that is erroneous, irrelevant, untimely, or incomplete and is maintained in a system of records that pertains to them. To request an amendment to your record, you should clearly mark the request as a ''Privacy Act Amendment Request.'' You have the burden of proof for demonstrating the appropriateness of the requested amendment and you must provide relevant and convincing evidence in support of your request.

Your request for amendment must: (1) provide the name of the specific Board system of records containing the record you seek to amend; (2) identify the specific portion of the record you seek to amend; (3) describe the nature of and reasons for each requested amendment; (4) explain why you believe the record is not accurate, relevant, timely, or complete; and (5) unless you have already done so in a related Privacy Act request for access or amendment, provide the necessary information to verify your identity.

**NOTIFICATION PROCEDURES:**

Same as ''Access procedures'' above. You may also follow this procedure in order to request an accounting of previous disclosures of records pertaining to you as provided for by 5 U.S.C. 5I(c).

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

Certain portions of this system of records may be exempt from 5 U.S.C. 552a(c)(3),I),I)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2).

**HISTORY:**

This SORN was previously published in the **Federal Register** at 73 FR 54595 (September 22, 2008). The SORN was also amended to incorporate two new routine uses required by OMB at 83 FR 43872 (August 28, 2018).

Board of Governors of the Federal Reserve System.

**Ann E. Misback,**

*Secretary of the Board.*

[FR Doc. 2022–17379 Filed 8–11–22; 8:45 am]

**BILLING CODE 6210–01–P**

## GENERAL SERVICES ADMINISTRATION

**[Notice–MA–2022–03; Docket No. 2022–0002; Sequence 3]**

### Temporary Waiver of Certain Provisions of Federal Management Regulation (FMR) Part 102–192 Regarding Mail Management Reporting Requirements

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

**ACTION:** Publication of GSA Bulletin FMR G–08.

**SUMMARY:** GSA has issued FMR Bulletin G–08, which temporarily waives the annual mail management reporting requirements of large Federal agencies as mandated by FMR §§ 102–192.85–102–192.105. This FMR Bulletin G–08 is available at *https://www.gsa.gov/policy-regulations/regulations/federal-management-regulation/federal-management-regulation-fmr-related-files#MailManagement.*

**DATES:** *Applicability Date:* This notice is effective upon signature and retroactively applies to relevant reporting for fiscal years 2017 and continues until further notice.

August 12, 2022.

**FOR FURTHER INFORMATION CONTACT:** For clarification of content, contact Michael DeMale, Office of Asset and Transportation, GSA, at email

*federal.mail@gsa.gov* or 202–805–8167. Please cite Notice of FMR Bulletin G–08.

**SUPPLEMENTARY INFORMATION:** Federal agencies must comply with FMR part 102–192, authorized by 44 U.S.C. 2901–2906, when developing and administering Federal agency mail programs. However, in February 2018, in response to two Office of Management and Budget (OMB) Memorandums (M–17–26 *Reducing Burden for Federal Agencies by Rescinding and Modifying OMB Memoranda* and M–18–23 *Shifting From Low-Value to High-Value Work*), GSA decided to cease development and deployment of the Simplified Mail Accountability Reporting Tool (SMART).

This FMR Bulletin G–08 rescinds and replaces FMR Bulletin G–07 by extending the temporary waiver of the annual mail management reporting requirement as mandated by FMR §§ 102–192.85–102–192.105.

**Krystal J. Brumfield,**

*Associate Administrator, Office of Government-wide Policy General Services Administration.*

[FR Doc. 2022–17404 Filed 8–11–22; 8:45 am]

**BILLING CODE 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) re-approve the proposed information collection project ''The Systematic Review Data Repository (SRDR) Platform''.

**DATES:** Comments on this notice must be received by October 11, 2022.

**ADDRESSES:** Written comments should be submitted to: Doris Lefkowitz, Reports Clearance Officer, AHRQ, by email at *doris.lefkowitz@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 *doris.lefkowitz@AHRQ.hhs.gov*.

**SUPPLEMENTARY INFORMATION:**

**Proposed Project**

**''The Systematic Review Data Repository (SRDR) Platform''**

Since 1997, the AHRQ Evidence-based Practice Center (EPC) Program has been reviewing relevant scientific information on a wide spectrum of clinical and health services topics to produce various types of evidence reports. A majority of these evidence reports are systematic reviews (SRs), which are used as evidence bases for clinical practice guidelines, research agendas, healthcare coverage, and other health related policies. Performing SRs is costly in time, labor, and money. Moreover, there is an increasing expectation of quicker turnaround in producing SRs to accommodate the fast moving pace of innovations and new scientific discoveries in healthcare. Some SRs overlap or are duplicated; independent teams of SR producers often extract data from the same studies, resulting in replication of work. Current methodology makes it difficult to harness and reuse previous work when updating SRs.

In an effort to reduce the economic burden of conducting SRs, the EPC program undertook development of a collaborative, Web-based repository of systematic review data called the Systematic Review Data Repository (SRDR). The OMB Control Number for this data collection is 0935–0244, which was last approved by OMB on October 16, 2019.

This resource serves as both an archive and data extraction tool, shared among organizations and individuals producing SRs worldwide, enabling the creation of a central database of SR data. This database is collaboratively vetted, freely accessible, and integrates seamlessly with reviewers' existing workflows, with the ultimate goal of facilitating the efficient generation and update of evidence reviews, and thus speeding and improving evidence-based policy-making with regards to health care.

Note that the SRDR system was upgraded during the last period of OMB clearance and is now designated as SRDR+. We will use the term ''SRDR platform'' to collectively denote the various upgraded iterations of the platform.

The SRDR project aims to achieve the following goals:

(1) Create online easy-to-use Web-based tools for conducting systematic reviews to facilitate extraction of data from primary studies;

(2) Develop an open-access searchable archive of key questions addressed in systematic reviews;

(3) Maintain a public repository of primary study data including provision of technical support for repository users; and

(4) Develop a process for making summary data from systematic reviews digitally shareable to end-users.

This study is being conducted by AHRQ through its contractor, Brown University, 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, including database development. 42 U.S.C. 299a(a)(1) and (8).

**Method of Collection**

To achieve the goals of this project the following data collections are being implemented:

(1) Collect registration information on SRs from SR producers who will populate the SRDR platform.

The SRDR platform now uses a two-tiered categorization of users, and collection of registration data will depend on the type of user. ''Contributors'' are SR producers who use the SRDR platform as a tool to support production of the SR and share scientific data from their SRs. Registration data will be collected from these users. ''General public'' users only view scientific data publicly available in the SRDR platform. No data will be collected from these users. The ''Commentator'' category of users that were referenced in the last OMB clearance period has been eliminated in the updated system since no users have signed up to be commentators.

All Contributors undergo a simple self-registration process by providing a password and an email address. Provision of username and institution information by registrants is now optional in the updated system. Collection of registration data from Contributors is required due to the technical nature of using the SRDR platform both as a database and a tool for assisting in the production of a SR, including providing comments in the various sections of a particular project on the SRDR platform. In addition, provision of an email address and institution information allows the administrators of the SRDR platform to

confirm that requests are being made by actual people and not potentially malicious software code such as bots and other cybersecurity threats.

User registration will be used for administrative purposes only including communication between SRDR platform administrators and registrant users. This type of information will not be made publicly available.

**Estimated Annual Respondent Burden**

Exhibit 1 shows the estimated annualized burden hours for the respondents' time to participate/use the SRDR platform. In 2020, 1,029 users registered as Contributors. Registration will take approximately 1.5 minutes or 0.025 hours per user. We thus calculate the total burden hours required for registration for all users annually is 25.73 hours.

EXHIBIT 1— ESTIMATED ANNUALIZED BURDEN HOURS

| Form name | Number of respondents | Number of responses per respondent | Hours per response | Total burden hours |
|---|---|---|---|---|
| Registration of users as Contributors | 1,029 | 1 | 0.025 | 25.73 |
| Total | 1,029 | | | 25.73 |

Exhibit 2 shows the estimated cost burden associated with the respondents' time to participate/use the SRDR platform. The total cost burden to respondents is estimated at an average of $ 1,126.97 annually.

EXHIBIT 2—ESTIMATED ANNUALIZED COST BURDEN

| Form name | Number of respondents | Total burden hours | Average hourly wage rate * | Total cost burden |
|---|---|---|---|---|
| Registration of users as Commentators or Contributors | 1,029 | 25.73 | [a] $43.80 | $1,126.97 |
| Total | 1,029 | 25.73 | | 1,126.97 |

* National Compensation Survey: Occupational wages in the United States May 2021, ''U.S. Department of Labor, Bureau of Labor Statistics.'' Available at: *https://www.bls.gov/oes/current/oes290000.htm*.

[a] Based on the mean wages for Healthcare Practitioners and Technical Occupations, 29–0000.

**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 9, 2022.

**Marquita Cullom,**

*Associate Director.*

[FR Doc. 2022–17369 Filed 8–11–22; 8:45 am]

**BILLING CODE 4160–90–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

### Supplemental Evidence and Data Request on Cervical Degenerative Disease Treatment

**AGENCY:** Agency for Healthcare Research and Quality (AHRQ), HHS.

**ACTION:** Request for Supplemental Evidence and Data Submissions.

**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 *Cervical Degenerative Disease Treatment,* 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, 2022.

**ADDRESSES:**

*Email submissions: epc@ahrq.hhs.gov.*

*On-line submissions: https://effectivehealthcare.ahrq.gov/get-involved/submit-sead.*

*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:** Jenae Benns, Telephone: 301–427–1496 or Email: *epc@ahrq.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** The Agency for Healthcare Research and Quality has commissioned the Evidence-based Practice Center (EPC) Program to complete a review of the evidence for *Cervical Degenerative Disease Treatment.* AHRQ is conducting this systematic 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 Cervical Degenerative Disease Treatment, including those that describe adverse events. The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/products/cervical-degenerative-disease/protocol.*

This is to notify the public that the EPC Program would find the following information on Cervical Degenerative Disease Treatment helpful:

- A list of completed studies that your organization has sponsored for this indication. 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: 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 indication.* In the list, please provide the *ClinicalTrials.gov* trial number or, if the trial is not registered, the protocol for the study including 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 indication 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 indications 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://www.effectivehealthcare.ahrq.gov/email-updates.*

The systematic review will answer the following questions. This information is provided as background. AHRQ is not requesting that the public provide answers to these questions.

**Key Questions* (KQ)**

KQ1. In patients with radiographic spinal cord compression and no cervical spondylotic myelopathy, what are the comparative effectiveness and harms of surgery compared to non-operative treatment or no treatment?

KQ2. In patients with radiographic spinal cord compression and mild to severe myelopathy, what is the effectiveness and harms of surgery versus non-operative treatment or no treatment? How do the effectiveness and harms vary by level of severity of myelopathy at the time of surgery?

KQ3. In patients with cervical degenerative disease, what are the comparative effectiveness and harms of surgical compared to non-operative treatment?

KQ4. In patients with cervical degenerative disease, what are the comparative effectiveness and harms of therapies added on to surgery (pre- or post-operative) compared with the same surgery alone?

KQ5. In patients with cervical radiculopathy due to cervical degenerative disease, what are the comparative effectiveness and harms of posterior versus anterior surgery?

KQ6. In patients with cervical degenerative disease, what are the comparative effectiveness and harms of posterior versus anterior surgery in patients with greater than or equal to three level disease?

KQ7. In patients with cervical spondylotic myelopathy due to cervical degenerative disease, what are the comparative effectiveness and harms of cervical laminectomy and fusion compared to cervical laminoplasty in patients?

KQ8. In patients with cervical spondylotic radiculopathy or myelopathy at one or two levels, what are the comparative effectiveness and harms of cervical arthroplasty compared to anterior cervical discectomy and fusion?

KQ9. In patients undergoing anterior cervical discectomy and fusion, what are the comparative effectiveness and harms of surgery based on interbody graft material or device type?

KQ10. In patients with pseudarthrosis after prior anterior cervical fusion surgery, what are the comparative effectiveness and harms of posterior approaches compared to revision anterior arthrodesis?

KQ11. In patients with cervical spondylotic myelopathy, what is the prognostic utility of preoperative magnetic resonance imaging (MRI) findings for neurologic recovery after surgery?

KQ12. What is the sensitivity and specificity of imaging assessment for identifying symptomatic pseudarthrosis after prior cervical fusion surgery?

KQ13. In patients with cervical spondylotic myelopathy, what are the comparative effectiveness and harms of intraoperative neuromonitoring (*e.g.,* with somatosensory or motor evoked potential measurements) versus no neuromonitoring on clinical outcomes in patients undergoing surgery?

* For purposes of these key questions, we are focusing on symptomatic cervical degenerative disc disease; with the exception of Key Question 1, evaluation and management of asymptomatic disease is beyond the scope of this review.

**Contextual Questions (CQ)**

CQ1. What is the prevalence of cervical degenerative disease with spinal cord compression in asymptomatic patients?

CQ2. What is the natural history of untreated spinal cord compression in patients with cervical degenerative disease?

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, TIMING, AND SETTING)

| | Inclusion | Exclusion |
|---|---|---|
| Population | • Age 18 and above with symptomatic cervical degenerative disease (*e.g.,* pain, radiculopathy, myelopathy) for all KQs except for KQ1, which includes asymptomatic patients. | • Younger than 18 years.<br>*• Effectiveness and harms of surgery based on patient characteristics, disease characteristics and radiographic characteristics (*e.g.,* age, gender, comorbidities [e.g., comorbid lumbar disease, autoimmune disease, neurological disease, mental illness, Down's syndrome], severity of cervical degenerative disease, Frailty Index, sagittal vertical aspect, degree of kyphosis, prior treatment [*e.g.,* bracing, traction, medications, massage, acupuncture, injections, chiropractic care, spinal manipulation], duration of pain, skill of surgeon).<br>• Patients without cervical degenerative disease.<br>• Nonhumans. |
| Intervention | • Cervical spine surgery (*e.g.,* discectomy, disc replacement, fusion, arthroplasty, laminectomy, laminoplasty, corpectomy, cervical hybrid surgery, foraminotomy).<br>• Non-surgical treatments (*e.g.,* heat, exercise, acupuncture, drugs, radiofrequency ablation, steroid injections, Botox® for neck pain, psychological strategies [e.g., cognitive behavioral therapy], occupational therapy, multidisciplinary rehabilitation).<br>• Intraoperative neuromonitoring<br>• Imaging to identify symptomatic pseudarthrosis after cervical fusion surgery.<br>• Preoperative MRI to predict neurologic recovery in myelopathy. | • Preoperative imaging using CT or plain films. |
| Comparators | • Any included intervention<br>• Placebo, waitlist, active control | • Nonoperative intervention versus nonoperative intervention without surgical comparator. |
| Outcomes | • Pain, sensory function, motor function, gait, quality of life (*e.g.,* VAS, NRS, NDI, SF–36, SF–12, EQ–5Dm, mJOA score, Nurick score, MDI, PROMIS–29, dysphagia scales, return to work).<br>• Fusion rate, reoperation rate<br>• Harms (*e.g.,* withdrawals due to adverse events, serious adverse events, new symptomatic adjacent segment disease, postoperative infection, device failure, ossification of the posterior ligament, development of kyphotic deformity).<br>• Sensitivity and specificity of imaging after cervical fusion surgery. | • Nonvalidated instruments. |
| Timing | • All time periods. | |
| Setting | • Inpatient, outpatient, ambulatory surgical centers.. | |
| Study Design | • RCTs, prospective trials and retrospective observational studies with a control group (study N≥50), current systematic reviews for identification of additional studies. | • Pre-post single-arm studies, case series, case reports, systematic reviews published prior to 2007. |

CT = computed tomography; EQ–5D = EuroQol–5 dimension instrument; KQ = key question; MDI = myelopathy disability index; MRI = magnetic resonance imaging; mJOA = modified Japanese orthopedic association scale; NDI = neck disability index; NRS = numerical pain rating scale; PROMIS–29 = patient reported outcome measurement information system; RCT = randomized controlled trial; QOL = quality of life; SF = short form health survey (12 or 36 items); VAS = visual analogue scale for pain.

Dated: August 9, 2022.

**Marquita Cullom,**

*Associate Director.*

[FR Doc. 2022–17371 Filed 8–11–22; 8:45 am]

**BILLING CODE 4160–90–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–22–21IO]**

### Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Evaluation Reporting Template for National and State Tobacco Control Program'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on October 13, 2021 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

**Proposed Project**

Evaluation Reporting Template for National and State Tobacco Control Program—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

**Background and Brief Description**

CDC's Office on Smoking and Health (OSH) created the National and State Tobacco Control Program (NTCP) in 1999 to encourage coordinated, national efforts to reduce tobacco-related diseases and deaths. The NTCP provides funding and technical support to state and territorial health departments. NTCP funds 50 states, Washington DC, Puerto Rico, and Guam. NTCP-funded programs are working to eliminate exposure to secondhand smoke, promote quitting among adults and youth, prevent initiation among youth and young adults, and identify and eliminate tobacco-related disparities. To reach these goals, the programs implement state and community interventions, mass-reach health communication interventions, tobacco use and dependence treatment interventions, and conduct surveillance and evaluation.

This information collection project supports the NTCP tobacco program managers, administrators, and evaluators by specifying which information should be included in their annual evaluation reports. Furthermore, the information collected via this form will allow OSH to monitor and evaluate program performance, document facilitators and barriers, lessons learned and promising practices, establish processes to support continuous program improvement and development, and assess the effectiveness and outcomes of the NTCP.

Information will be collected electronically using an Excel spreadsheet tool titled ''Evaluation Reporting Template for National and State Tobacco Control Program'' (ERT). The collection of this information is part of a federal reporting requirement for funds received by NTCP recipients. The information collection form will consolidate information necessary for evaluation of the NTCP.

The data collected through the Evaluation Reporting Template for National and State Tobacco Control Program (ERT) was compared to all other potential evaluation data sources and designed not to duplicate any information collected in other tools. Although other NTCP data collection tools are currently in use to collect data for NTCP (Monitoring and Reporting System for the National Tobacco Control Program; OMB Control No. 0920–1097, Exp. 04/30/2023), these existing data collection tools are focused on financial and programmatic management, program implementation, and performance measurement. By contrast, the ERT will collect process and outcome evaluation findings resulting from individual evaluations designed by each NTCP recipient. Findings will include contextual factors, indicators, lessons learned, and information about health inequities and health disparities.

Recipients will use the ERT for National and State Tobacco Control Program to report information to CDC about their Tobacco Control Program evaluation findings. Each recipient will submit an Evaluation Report template annually. OMB approval is requested for three years. Intended respondents include 53 cooperative agreement recipients. The estimated burden per response is eight hours for each Annual Evaluation Report. The total estimated annualized burden is 424 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| State and Territorial Health Department Tobacco Control Program Staff. | Evaluation Reporting Template for National and State Tobacco Control Program. | 53 | 1 | 8 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2022–17354 Filed 8–11–22; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–22–1265]**

### Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Evaluation of the Chronic Disease Self-Management Program in the US Affiliated Pacific Islands'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on April 16, 2021 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

**Proposed Project**

Evaluation of the Chronic Disease Self-Management Program (CDSMP) in the US Affiliated Pacific Islands (OMB Control No. 0920–1265)—Reinstatement—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

NCCDPHP plans to evaluate the implementation of Stanford University's Chronic Disease Self-Management Program (CDSMP) in the US Affiliated Pacific Islands (USAPIs). These jurisdictions include American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia. Stanford University's Chronic Disease Self-Management Program (CDSMP) is a six-week series of workshops for people with arthritis, diabetes, lung disease, cancer, and other health problems. The workshops focus on helping participants learn strategies to manage chronic disease, including techniques to deal with problems such as frustration, fatigue, pain and isolation; appropriate exercise for maintaining and improving strength, flexibility, and endurance; and appropriate use of medications among others. Proven benefits of CDSMP include decreased pain and health distress, increased energy, increased physical activity, better communication with health care providers, and increased confidence in managing chronic disease. The program will be offered repeatedly over the course of three years. This new request is for three years, which will cover repeated data collection.

The purpose of the evaluation is to understand: (1) how CDSMP is being implemented in the region; (2) to identify barriers and facilitators to implementation; (3) to monitor fidelity to Stanford University's model and document adaptations to the curriculum; and (4) to understand the self-reported effects of the program on program participants. Because this is the first time CDSMP is being implemented in the USAPIs, we do not know if the intervention, which has proven to improve health outcomes in many ethnic groups within the United States, will lead to improved health outcomes for these communities.

CDC requests OMB approval for an estimated 63 annual burden hours. There are no costs to respondents other than their time to participate.

Estimated Annualized Burden Hours

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Program Participant | Chronic Disease Self-Management Questionnaire (Pre-Post Test). | 190 | 2 | 10/60 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2022–17356 Filed 8–11–22; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–22–22DW]**

### Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Project Firstline Partner Reporting, the assessment of performance and progress data on a new infection control program for frontline healthcare personnel'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on April 8, 2022, to obtain comments from the public and affected agencies. CDC received three comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

**Proposed Project**

Project Firstline (PFL) Partner Reporting—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The goal of the Project Firstline (PFL) Partner Reporting project is to collect performance/progress information from PFL national partner organizations to inform development of tailored infection prevention and control (IPC) communications and trainings and resources designed for frontline healthcare personnel (HCP). PFL is a new program and as such, collection of performance/progress data is critical for successful program implementation and ongoing improvement. Gathering data from PFL partners will provide crucial insights into the diverse needs of HCP, gaps in existing CDC training resources, and will help CDC understand the reach and impact of the PFL initiative. Having this information will allow CDC and partners to monitor progress towards desired outcomes while improving PFL outreach and programming based on lessons learned. The PFL collaborative network, data-driven training and education programs, and targeted messaging through digital platforms will help drive behavior change—enhancing the readiness of the nation's frontlines to respond to the current COVID–19 pandemic and future disease outbreaks.

To fulfill the data requested by CDC for training activities, partner organizations ask training participants to complete registration for activities and/or evaluations at the end of trainings, and data from these sources are then aggregated and submitted to CDC along with descriptive information about the training topic and approach. The partner organizations also collect and submit data on communications activities occurring through email, social media, websites, and podcasts to promote the trainings. The total estimated annualized burden is 502 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| National Partner Organization | Communications Reporting | 11 | 12 | 1 |
| National Partner Organization | Training Reporting | 11 | 12 | 15/60 |
| Training Participants | Training Evaluation Form | 4,059 | 1 | 5/60 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2022–17355 Filed 8–11–22; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–22–0980]**

### Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''National Environmental Assessment Reporting System (NEARS)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on April 08, 2022, to obtain comments from the public and affected agencies. CDC received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

**Proposed Project**

National Environmental Assessment Reporting System (NEARS) (OMB Control No. 0920–0980, Exp. 08/31/2022)—Revision—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

CDC is requesting a three-year Paperwork Reduction Act (PRA) clearance for the National Environmental Assessment Reporting System (NEARS) to collect data from foodborne illness outbreak environmental assessments routinely conducted by local, state, territorial, or tribal food safety programs during outbreak investigations. Prior to the development of NEARS, environmental assessment data were not collected at the national level. The data reported through this surveillance system provides timely information on the causes of outbreaks, including environmental factors associated with outbreaks, and are essential to environmental public health regulators' efforts to respond more effectively to outbreaks and prevent future, similar outbreaks. This surveillance system was specifically designed to link to CDC's National Outbreak Reporting System (NORS) (OMB Control No. 0920–1304, Exp. 09/30/2023), a disease (*e.g.,* enteric diseases transmitted by food) outbreak surveillance system. NEARS was developed by the Environmental Health Specialists Network (EHS–Net), a collaborative network of CDC, the U.S. Food and Drug Administration (FDA), the U.S. Department of Agriculture (USDA), and nine state food safety programs (California, Connecticut, Georgia, Iowa, New York, Minnesota, Oregon, Rhode Island, and Tennessee). The network consists of environmental health specialists (EHSs), epidemiologists, and laboratorians.

While conducting environmental assessments during outbreak investigations is routine for food safety program officials, reporting information from the environmental assessments to CDC is not routine. Local, state, federal, territorial, and tribal food safety programs are the primary respondents for this data collection. One official from each participating program will report environmental assessment data on outbreaks. These programs are typically located in public health or agriculture agencies. In the U.S., there are approximately 3,000 such agencies.

Not every program of the approximate 3,000 programs will register for NEARS and respond every year. Currently, 34 programs have entered outbreak data into NEARS. We expect up to 10 additional programs will register to participate in NEARS over the next three years, to reach a maximum of 44 reporting programs.

It is not possible to determine exactly how many outbreaks will occur in the future, nor where they will occur. Over the past six years, we received 1,261 reports to NEARS, with the highest number of 307 reports in 2018, and a yearly average of 210 reports. Based on these reporting trends, we estimate that each participating program will report up to seven foodborne illness outbreaks per year; therefore, up to 308 outbreaks may be reported annually to NEARS for the duration of the next PRA clearance.

The activities associated with NEARS that require a burden estimate consist of registration, training, observing, data recording, and data reporting events. Food safety programs interested in participating in NEARS must first register to use the system. The anticipation of 10 new programs over the next three years is rounded to three new programs per year. Therefore, the total estimated annual burden associated with registration is one hour (10 minutes per hour × three registrations = 0.5 hours rounded to one hour).

The next activity is the training for the food safety program personnel participating in NEARS. These staff will be encouraged to attend a Microsoft Teams/Zoom Meeting (*i.e.,* webinar) training session conducted by CDC staff. This training is voluntary and will cover identifying environmental factors, logging in and entering data into the web-based NEARS data entry system, and troubleshooting problems. Training burden is based on the maximum expected participation from the reporting entities which could be up to 10 additional local and state health departments (most current participants have already taken the training). We estimate the burden of this training to be a maximum of two hours. Respondents will only be required to take this training one time. Assuming a maximum participation of up to 10 new programs and about five staff being trained at each participating program, the total estimated burden associated

with this training is 100 hours (two hours × 10 entities × five staff per entity).

Although not a requirement, food safety program personnel participating in NEARS will also be encouraged to complete CDC's Environmental Assessment Training Series (EATS). This e-Learning course provides training to staff on how to use a systems approach in foodborne illness outbreak environmental assessments. Participants acquire in-depth skills and knowledge to investigate foodborne illness outbreaks as a member of a larger outbreak response team, identify an outbreak's environmental causes, and recommend appropriate control measures. The course is presented in the context of a simulated virtual environment where participants can interact and practice the skills being learned. We estimate the burden of this training to be a maximum of 10 hours. Respondents will only take this training one time. Assuming a maximum participation of up to 10 new programs and approximately five staff being trained at each program, the estimated burden associated with this training is 500 hours (10 hours × 10 entities × five staff per entity).

Data reporting activities for NEARS will be done once at each establishment involved in the outbreak. Information collection activities for NEARS consist of the following: NEARS data reporting and NEARS manager interview.

For each outbreak, the respondent (one official from each participating program) will spend around 30 minutes recording environmental assessment data on pen and paper. Assuming a maximum number of 308 outbreaks, the estimated annual burden is 150 hours (30 minutes per outbreak × 300 outbreaks) for recording observations.

The manager interview will be conducted on pen and paper at each establishment associated with an outbreak. The respondents for this activity are the retail food managers of the outbreak establishments. Manager interviews are a routine part of outbreak investigations; however, food safety program personnel participating in NEARS conduct a structured interview and will thus conduct their interviews slightly differently than they would if they were not participating in NEARS. For this reason, we have presented the burden for this interview separately. Most outbreaks are associated with only one establishment; however, some are associated with multiple establishments. We estimate that a maximum of four manager interviews will be conducted per outbreak (n = 4 × 308 = 1,232). Each interview and data reporting will take about 20 minutes. The estimated annual burden is 411 hours (20 minutes × 1,232 manager interviews).

Entering data into the NEARS Data Reporting Form (web entry) is combined for both the environmental assessment and the manager interviews and is expected to take approximately 40 minutes, for a total of 205 burden hours (40 minutes × 308 outbreaks).

As part of this Revision information collection request (ICR), the requested changes to the NEARS Data Recording Form (paper form) include an update to the definitions for contributing factors based on national workgroup recommendations. In addition, one question was added to obtain a measure of the community's social vulnerability in the census tract where the food establishment is located. The social vulnerability index (SVI) will be added to the NEARS Data Reporting Form (web entry) as a change request in the next fiscal year. These form modifications are not anticipated to change the time burden per response.

Due to the anticipated increase in reporting sites from 34 to 44 registered food safety programs with each reporting up to seven outbreaks each year, the total estimated annual burden for this information collection is 1,371 hours. This reflects an increase in time burden of 21 hours over the previously approved 1,350 hours. The total number of respondents is 1,951 per year. This reflects an increase of 51 respondents over the previously approved 1,900 respondents. There are no costs to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Food safety program personnel | NEARS Food Safety Program Registration | 3 | 1 | 10/60 |
| NEARS Food Safety Program Training | 50 | 1 | 2 | |
| NEARS e-Learning (screenshots) | 50 | 1 | 10 | |
| NEARS Data Recording (paper form) | 44 | 7 | 30/60 | |
| NEARS Data Reporting and Manager's Interview (web entry). | 44 | 7 | 40/60 | |
| Retail food personnel | NEARS Manager Interview | 1,232 | 1 | 20/60 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2022–17357 Filed 8–11–22; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–22–0612]**

### Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Well-Integrated Screening and Evaluation for Women Across the Nation (WISEWOMAN) Reporting System'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on June 2, 2022 to obtain comments from the public and affected agencies. CDC received no comment(s) related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

**Proposed Project**

Well-Integrated Screening and Evaluation for Women Across the Nation (WISEWOMAN) Reporting System (OMB Control No. 0920–0612, Exp. 08/31/2022)—Extension—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The WISEWOMAN program, sponsored by the CDC, provides services to low income, uninsured, or underinsured women aged 40–64. WISEWOMAN is designed to prevent, detect, and control hypertension and other cardiovascular disease (CVD) risk factors through healthy behavior support services which are tailored for individual and group behavior change. The WISEWOMAN program provides services to women who are jointly enrolled in the National Breast and Cervical Cancer Early Detection Program (NBCCEDP), which is also sponsored by CDC.

The WISEWOMAN program is administered by state health departments and tribal programs. In 2018, new five-year cooperative agreements were awarded under Funding Opportunity Announcement DP18–1816, subject to the availability of funds. CDC collects two types of information from WISEWOMAN awardees. The WISEWOMAN awardee submits an electronic data file to CDC twice per year. The Minimum Data Elements (MDE) file contains data using a unique identifier with client-level information about cardiovascular disease risk factors and types of healthy behavior support services for participants served by the program. The estimated burden per response for the MDE file is 24 hours. In addition, each WISEWOMAN awardee submits an Annual Progress Report to CDC, which provides a narrative summary of the awardee's objectives and the activities undertaken to meet program goals. The estimated burden per response for the Annual Progress Report is 16 hours.

There are no changes to the information collection. CDC will continue to use the information collected from WISEWOMAN awardees to support program monitoring and improvement activities, evaluation, and assessment of program outcomes. The overall program evaluation helps to demonstrate program accomplishments and strengthen the evidence for implementing strategies that improve engagement of underserved populations. The information reported to CDC can also help to determine whether the identified strategies and associated activities can be implemented at various levels within a state or tribal organization. Evaluation is also designed to demonstrate how WISEWOMAN can obtain cardiovascular disease health outcome data on at-risk populations, promote public education about cardiovascular disease risk-factors, and improve the availability of healthy behavior support services for under-served women.

OMB approval is requested for two years. Participation in this information collection is required as a condition of cooperative agreement funding. There are no costs to respondents other than their time. The total estimated annualized burden hours are 2,240.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hrs.) |
|---|---|---|---|---|
| WISEWOMAN Awardees | Screening and Assessment and Lifestyle Program MDEs. | 35 | 2 | 24 |
| | Annual Progress Report | 35 | 1 | 16 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2022–17360 Filed 8–11–22; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–22–0770]**

### Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''National HIV Behavioral Surveillance System (NHBS)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on May 13, 2022 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

**Proposed Project**

National HIV Behavioral Surveillance System (NHBS) (OMB Control No. 0920–0770, Exp. 01/31/2023)—Revision—National Center for HIV, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The purpose of this data collection is to monitor behaviors of persons at high risk for infection that are related to Human Immunodeficiency Virus (HIV) transmission and prevention in the United States. The primary objectives of the NHBS are to obtain data from samples of persons at risk to: (a) describe the prevalence and trends in risk behaviors; (b) describe the prevalence of and trends in HIV testing and HIV infection; (c) describe the prevalence of and trends in use of HIV prevention services; and (d) identify met and unmet needs for HIV prevention services in order to inform health departments, community based organizations, community planning groups and other stakeholders.

By describing and monitoring the HIV risk behaviors, HIV seroprevalence and incidence, and HIV prevention experiences of persons at highest risk for HIV infection, NHBS provides an important data source for evaluating progress towards national public health initiatives, such as reducing new infections, increasing the use of condoms, and targeting populations at high risk.

The Centers for Disease Control and Prevention requests approval for a three-year Revision of this information collection. Data are collected through in-person interviews conducted with persons systematically selected from 20 Metropolitan Statistical Areas (MSAs) throughout the United States; these 20 MSAs are chosen based on highest number of HIV infections diagnosed. Persons at risk for HIV infection to be interviewed for NHBS include men who have sex with men (MSM), persons who inject drugs (PWID), and heterosexually active persons at increased risk of HIV infection (HET). A brief screening interview will be used to determine eligibility for participation in the behavioral assessment.

The data from the behavioral assessment will provide estimates of: (1) behavior related to the risk of HIV and other sexually transmitted diseases; (2) prior testing for HIV; and (3) use of HIV prevention services.

All persons interviewed will also be offered an HIV test and will participate in a pre-test counseling session. No other federal agency systematically collects this type of information from persons at risk for HIV infection. These data have substantial impact on prevention program development and monitoring at the local, state, and national levels. CDC estimates that NHBS will involve, per year, in up to 20 MSAs, eligibility screening for 125 persons and eligibility screening plus the behavioral assessment with 500 eligible respondents, resulting in a total of 30,000 eligible survey respondents and 7,500 ineligible screened persons during a three-year period. Data collection will rotate such that interviews will be conducted among one group per year: MSM in Year 1, PWID in Year 2, and HET in Year 3. The type of data collected for each group will vary slightly due to different sampling methods and risk characteristics of the group.

Participation of respondents is voluntary and there is no cost to the respondents other than their time. CDC requests OMB approval for an estimated 6,600 annual burden hours.

ESTIMATED ANNUALIZED BURDEN HOURS

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Persons Screened | Eligibility Screener | 12,500 | 1 | 5/60 |
| Eligible Participants | Behavioral Assessment MSM | 3,333 | 1 | 24/60 |

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

| Type of respondents | Form name | Number of respondents | Number of responses per respondent | Average burden per response (in hours) |
|---|---|---|---|---|
| Eligible Participants | Behavioral Assessment PWID | 3,333 | 1 | 43/60 |
| Eligible Participant | Behavioral Assessment HET | 3,333 | 1 | 31/60 |
| Peer Recruiters | Recruiter Debriefing | 3,333 | 1 | 2/60 |

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2022–17358 Filed 8–11–22; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

**[OMB No. 0970–0577]**

### Proposed Information Collection Activity; Evaluation of LifeSet

*Correction*

In notice document 2022–16791, appearing on pages 48033 through 48034 in the issue of Friday, August 5, 2022, make the following corrections:

1. On page 48034, in the table, on the third row, in the second cell, ''LifeSet Team

Supervisors'' should appear below ''LifeSet Specialists''.

2. On the same page, in the same table, remove the fourth row including the text ''LifeSet Team Supervisors''.

[FR Doc. C1–2022–16791 Filed 8–11–22; 8:45 am]

**BILLING CODE 0099–10–D**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2016–N–1593]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Medical Device Accessories

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Submit written comments (including recommendations) on the collection of information by September 12, 2022.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://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. The OMB control number for this information collection is 0910–0823. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

#### Medical Device Accessories

*OMB Control Number 0910–0823—Extension*

FDA's guidance document entitled ''Medical Device Accessories—Describing Accessories and Classification Pathways'' [1] is intended to provide guidance to industry and FDA staff about the regulation of accessories to medical devices, to describe FDA's policy concerning the classification of accessories, and to discuss the application of this policy to devices that are commonly used as accessories to other medical devices. In addition, the guidance explains what devices FDA generally considers an ''accessory'' and describes the processes under section 513(f)(6) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)(6)) to allow requests for risk- and regulatory control-based classification of accessories.

The FDA Reauthorization Act of 2017 (FDARA) (Pub. L. 115–52) changed how FDA regulates medical device accessories. Specifically, section 707 of FDARA added section 513(f)(6) to the statute and requires that FDA, upon request, classify existing and new accessories notwithstanding the classification of any other device with which such accessory is intended to be used. This means that the classification of an accessory may not be the same as its parent device, depending on the risks of the accessory when used as intended and the level of regulatory controls necessary for reasonable assurance of safety and effectiveness of the accessory. Until an accessory is distinctly classified, its existing classification will continue to apply. This provision does not preclude a manufacturer from submitting a De Novo request for an accessory.

Depending on an accessory's regulatory history, there are different submission types, tracking mechanisms, and deadlines:

(1) Existing accessory types are those that have been identified in a classification regulation or granted marketing authorization as part of a 510(k), premarket approval application (PMA), or De Novo request (approved under OMB control numbers 0910–0120, 0910–0231, and 0910–0844, respectively). Manufacturers with marketing authorization for an existing accessory may request appropriate classification through a new stand-alone premarket submission (Existing Accessory Request). Upon request, FDA is required to meet with a manufacturer or importer to discuss the appropriate classification of an existing accessory prior to submitting a written request. Existing Accessory Requests will be initially tracked as ''Q-submissions'' (approved under OMB control number 0910–0756). FDA has a statutory deadline of 85 calendar days to respond to an Existing Accessory Request.

(2) New accessory types are those that have not been granted marketing authorization as part of a 510(k), PMA,

[1] The guidance document is available on FDA's website (*https://www.fda.gov/regulatory-information/search-fda-guidance-documents/medical-device-accessories-describing-accessories-and-classification-pathways*).

or De Novo request. Manufacturers may include new accessories into a 510(k) or PMA with the parent device (New Accessory Request). New Accessory Requests will have the same deadline as the 510(k) or PMA. Therefore, new accessory types should follow the applicable Medical Device User Fee Amendments of 2017 deadline for the parent submission. The decision for New Accessory Requests will be separate from the decision for the marketing application.

For both Existing and New Accessory Requests, manufacturers must request proper classification of their accessory in the submission and include draft special controls, if requesting classification into class II. The processes that we use to classify an accessory will be like those used for De Novo requests. If FDA grants the Accessory Request, FDA must issue an order establishing a new classification regulation for the accessory type. If FDA denies the Accessory Request, FDA must issue a letter with a detailed description and justification for our determination.

In the **Federal Register** of March 16, 2022 (87 FR 14891), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

| Activity; guidance for industry (GFI) section | Number of respondents | Number of responses per respondent | Total annual responses | Average burden per response | Total hours |
|---|---|---|---|---|---|
| Existing Accessory Request; GFI VI.A | 10 | 1 | 10 | 40 | 400 |
| New Accessory Request | 5 | 1 | 5 | 40 | 200 |
| Total | | | | | 600 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based on an evaluation of the information collection, we have reduced the estimated number of existing requests from 15 to 10, and we have reduced the estimated number of new requests from 10 to 5. This adjustment results in an overall reduction to the information collection by 10 responses and 400 hours annually. We believe these adjustments more accurately reflect the current number of requests associated with medical device accessory classifications.

Dated: August 5, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–17296 Filed 8–11–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–D–1494]**

### International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Effectiveness of Anthelmintics: Specific Recommendations for Porcines (Revision 1); Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry (GFI) #110 (VICH GL16(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Porcines (Revision 1).'' This draft guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

**DATES:** Submit either electronic or written comments on the draft guidance by October 11, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2022–D–1494 for ''Effectiveness of Anthelmintics: Specific Recommendations for Porcines (Revision 1).'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential

information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Aimée Phillippi-Taylor, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl, Rockville, MD 20855, 240–402–0601, *aimee.phillippi-taylor@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft GFI #110 (VICH GL16(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Porcines (Revision 1).'' It should be read in conjunction with GFI #90 (VICH GL7) entitled ''Effectiveness of Anthelmintics: General Recommendations,'' which should be referred to for discussion of broad aspects for providing pivotal data to demonstrate product anthelmintic effectiveness. The purpose of this guidance is: (1) to be more specific for certain specific porcine issues not discussed in GFI #90 (VICH GL7); (2) to highlight differences with GFI #90 (VICH GL7) on effectiveness data recommendations; and (3) to give explanations for disparities with GFI #90 (VICH GL7). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

FDA has participated in efforts to enhance international harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify, and then reduce, differences in technical requirements for drug development among regulatory agencies in different countries. FDA has actively participated in the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission and European Medicines Agency; AnimalhealthEurope; FDA—Center for Veterinary Medicine; U.S. Department of Agriculture—Center for Veterinary Biologics; the U.S. Animal Health Institute; the Japanese Ministry of Agriculture, Forestry and Fisheries; and the Japanese Veterinary Products Association. There are 10 observers to the VICH Steering Committee: One representative from government and one representative from industry of Australia, New Zealand, Canada, South Africa, and the United Kingdom. The World Organisation for Animal Health is an associate member of the VICH. The VICH Secretariat, which coordinates the preparation of documentation, is provided by HealthforAnimals.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Effectiveness of Anthelmintics: Specific Recommendations for Porcines (Revision 1).'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 514 have been approved under OMB Control Number 0910–0032.

## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: August 8, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–17348 Filed 8–11–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–D–1494]**

### International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Effectiveness of Anthelmintics: General Recommendations (Revision 1); Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry (GFI) #90 (VICH GL7(R1)) entitled ''Effectiveness of Anthelmintics: General Recommendations (Revision 1).'' This draft guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). The objective of this draft guidance is to provide study design recommendations that will facilitate the universal acceptance of the generated effectiveness data to fulfill the national/regional requirements for anthelmintic drugs in animal species. This revision updates data analysis and isolate characterization recommendations, outlines how to approach new indications, and makes additional clarifying changes.

**DATES:** Submit either electronic or written comments on the draft guidance by October 11, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–1999–D–0188 for ''Effectiveness of Anthelmintics: General Recommendations (Revision 1).'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Aimée Phillippi-Taylor, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0601, *aimee.phillippi-taylor@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance for industry GFI #90 (VICH GL7(R1)) entitled ''Effectiveness of Anthelmintics: General Recommendations (Revision 1).'' The objective of this guidance is to provide study design recommendations that will facilitate the universal acceptance of the generated effectiveness data to fulfill the national/regional requirements for anthelmintic drugs in animal species. This revision updates data analysis and isolate characterization recommendations, outlines how to approach new indications, and makes additional clarifying changes.

FDA has participated in efforts to enhance international harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify, and then

reduce, differences in technical requirements for drug development among regulatory agencies in different countries. FDA has actively participated in the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission and European Medicines Agency; AnimalhealthEurope; FDA—Center for Veterinary Medicine and U.S. Department of Agriculture—Center for Veterinary Biologics; the U.S. Animal Health Institute; the Japanese Ministry of Agriculture, Forestry and Fisheries; and the Japanese Veterinary Products Association. There are 10 observers to the VICH Steering Committee: One representative from government and one representative from industry of Australia, New Zealand, Canada, South Africa, and the United Kingdom. The World Organisation for Animal Health is an associate member of the VICH. The VICH Secretariat, which coordinates the preparation of documentation, is provided by HealthforAnimals.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Effectiveness of Anthelmintics: General Recommendations (Revision 1).'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 514 have been approved under OMB control number 0910–0032.

## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov*.

Dated: August 8, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–17343 Filed 8–11–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–D–1494 (Formerly FDA–2000–D–0135)]**

### International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; ''Effectiveness of Anthelmintics: Specific Recommendations for Equines (Revision 1)''; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry (GFI) #109 (VICH GL15(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Equines (Revision 1).'' This draft guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

**DATES:** Submit either electronic or written comments on the draft guidance by October 11, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2022–D–1494 for ''Effectiveness of Anthelmintics: Specific Recommendations for Equines (Revision 1).'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential

with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Aimée Phillippi-Taylor, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl, Rockville, MD 20855, 240–402–0601, *Aimee.Phillippi-Taylor@fda.hhs.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft GFI #109 (VICH GL15(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Equines (Revision 1).'' It should be read in conjunction with GFI #90 (VICH GL7), ''Effectiveness of Anthelmintics: General Recommendations,'' which should be referred to for discussion of broad aspects for providing pivotal data to demonstrate product anthelmintic effectiveness. The purpose of this guidance is: (1) to be more specific for certain specific equine issues not discussed in GFI #90 (VICH GL7); (2) to highlight differences with GFI #90 (VICH GL7) on effectiveness data recommendations; and (3) to give explanations for disparities with GFI #90 (VICH GL7). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

FDA has participated in efforts to enhance international harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify, and then reduce, differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission and European Medicines Agency; AnimalhealthEurope; FDA—Center for Veterinary Medicine and U.S. Department of Agriculture—Center for Veterinary Biologics; the U.S. Animal Health Institute; the Japanese Ministry of Agriculture, Forestry and Fisheries; and the Japanese Veterinary Products Association.

There are 10 observers to the VICH Steering Committee: One representative from government and one representative from industry of Australia, New Zealand, Canada, South Africa, and the United Kingdom. The World Organisation for Animal Health is an associate member of the VICH. The VICH Secretariat, which coordinates the preparation of documentation, is provided by HealthforAnimals.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Effectiveness of Anthelmintics: Specific Recommendations for Equines (Revision 1).'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 514 have been approved under OMB control number 0910–0032.

## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/animal-veterinary/guidance-regulations/guidance-industry, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov*.

Dated: August 8, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–17347 Filed 8–11–22; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–D–1494] (Formerly FDA–2000–D–0193)]**

### International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; ''Effectiveness of Anthelmintics: Specific Recommendations for Felines (Revision 1)''; Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry (GFI) #113 (VICH GL20(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Felines (Revision 1).'' This draft guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

**DATES:** Submit either electronic or written comments on the draft guidance by October 11, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2022–D–1494 for ''Effectiveness of Anthelmintics: Specific Recommendations for Felines (Revision 1).'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Aimée Phillippi-Taylor, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl, Rockville, MD 20855, 240–402–0601, *aimee.phillippi-taylor@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft GFI #113 (VICH GL20(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Felines (Revision 1).'' It should be read in conjunction with GFI #90 (VICH GL7), ''Effectiveness of Anthelmintics: General Recommendations,'' which should be referred to for discussion of broad aspects for providing pivotal data to demonstrate product anthelmintic effectiveness. The purpose of this guidance is: (1) to be more specific for certain specific feline issues not discussed in GFI #90 (VICH GL7); (2) to highlight differences with GFI #90 (VICH GL7) on effectiveness data recommendations; and (3) to give explanations for disparities with GFI #90 (VICH GL7). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

FDA has participated in efforts to enhance international harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify, and then reduce, differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical

requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission and European Medicines Agency; AnimalhealthEurope; FDA—Center for Veterinary Medicine and U.S. Department of Agriculture—Center for Veterinary Biologics; the U.S. Animal Health Institute; the Japanese Ministry of Agriculture, Forestry and Fisheries; and the Japanese Veterinary Products Association.

There are 10 observers to the VICH Steering Committee: One representative from government and one representative from industry of Australia, New Zealand, Canada, South Africa, and the United Kingdom. The World Organisation for Animal Health is an associate member of the VICH. The VICH Secretariat, which coordinates the preparation of documentation, is provided by HealthforAnimals.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Effectiveness of Anthelmintics: Specific Recommendations for Felines (Revision 1).'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 514 have been approved under OMB control number 0910–0032.

## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/animal-veterinary/guidance-regulations/guidance-industry, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: August 8, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–17350 Filed 8–11–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–D–1494 (Formerly FDA–2000–D–0193)]**

### International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Effectiveness of Anthelmintics: Specific Recommendations for Chickens—Gallus gallus (Revision 1); Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry GFI #114 (VICH GL21(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Chickens—Gallus gallus (Revision 1).'' This guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes. This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

**DATES:** Submit either electronic or written comments on the draft guidance by October 11, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

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*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. FDA–2022–D–1494 (formerly FDA–2000–D–0193) for ''Effectiveness of Anthelmintics: Specific Recommendations for Chickens—Gallus gallus (Revision 1).'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

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**FOR FURTHER INFORMATION CONTACT:** Aimée Phillippi-Taylor, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0601, *aimee.phillippi-taylor@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

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FDA has participated in efforts to enhance international harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify, and then reduce, differences in technical requirements for drug development among regulatory agencies in different countries.

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There are 10 observers to the VICH Steering Committee: One representative from government and one representative from industry of Australia, New Zealand, Canada, South Africa, and the United Kingdom. The World Organisation for Animal Health is an associate member of the VICH. The VICH Secretariat, which coordinates the preparation of documentation, is provided by HealthforAnimals.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21CFR 10.115). This draft guidance, when finalized, will represent the current thinking of FDA on ''Effectiveness of Anthelmintics: Specific Recommendations for Chickens—Gallus gallus (Revision 1).'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

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## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: August 8, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–17351 Filed 8–11–22; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–D–1494 (Formerly FDA–1990–D–0188)]**

### International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Effectiveness of Anthelmintics: Specific Recommendations for Ovines (Revision 1); Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry GFI #96 (VICH GL13(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Ovines (Revision 1).'' This draft guidance has been developed for veterinary use by the

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

**DATES:** Submit either electronic or written comments on the draft guidance by October 11, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

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**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft guidance for industry GFI #96 (VICH GL13(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Ovines (Revision 1).'' It should be read in conjunction with GFI #90 (VICH GL7), ''Effectiveness of Anthelmintics: General Recommendations,'' which should be referred to for discussion of broad aspects for providing pivotal data to demonstrate product anthelmintic effectiveness. The purpose of this guidance is: (1) to be more specific for certain specific ovine issues not discussed in GFI #90 (VICH GL7); (2) to highlight differences with GFI #90 (VICH GL7) on effectiveness data recommendations; and (3) to give explanations for disparities with GFI #90 (VICH GL7). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

FDA has participated in efforts to enhance international harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify, and then reduce, differences in technical requirements for drug development among regulatory agencies in different countries.

FDA has actively participated in the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission and European Medicines Agency;

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This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Effectiveness of Anthelmintics: Specific Recommendations for Ovines (Revision 1).'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

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Dated: August 8, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy*.

[FR Doc. 2022–17346 Filed 8–11–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–D–1494 (Formerly FDA–2000–D–0135)]**

### International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Effectiveness of Anthelmintics: Specific Recommendations for Canines (Revision 1); Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry GFI #111 (VICH GL19(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Canines (Revision 1).'' This draft guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

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**SUPPLEMENTARY INFORMATION:**

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## II. Paperwork Reduction Act of 1995

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Dated: August 8, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–17349 Filed 8–11–22; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–D–1494 (Formerly FDA–1990–D–0188)]**

### International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Effectiveness of Anthelmintics: Specific Recommendations for Bovines (Revision 1); Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry (GFI) #95 (VICH GL12(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Bovines (Revision 1).'' This draft guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

**DATES:** Submit either electronic or written comments on the draft guidance by October 11, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

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**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a draft GFI #95 (VICH GL12(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Bovines (Revision 1).'' It should be read in conjunction with GFI #90 (VICH GL7), ''Effectiveness of Anthelmintics: General Recommendations,'' which should be referred to for discussion of broad aspects for providing pivotal data to demonstrate product anthelmintic effectiveness. The purpose of this guidance is: (1) to be more specific for certain specific bovine issues not discussed in GFI #90 (VICH GL7); (2) to highlight differences with GFI #90 (VICH GL7) on effectiveness data recommendations; and (3) to give explanations for disparities with GFI #90 (VICH GL7). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

FDA has participated in efforts to enhance international harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify, and then reduce, differences in technical requirements for drug development among regulatory agencies in different countries. FDA has actively participated in the International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The VICH is concerned with developing harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and includes input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission and European Medicines Agency; AnimalhealthEurope; FDA—Center for Veterinary Medicine; U.S. Department of Agriculture—Center for Veterinary Biologics; the U.S. Animal Health Institute; the Japanese Ministry of Agriculture, Forestry and Fisheries; and the Japanese Veterinary Products Association. There are 10 observers to the VICH Steering Committee: one representative from government and one representative from industry of Australia, New Zealand, Canada, South Africa, and the United Kingdom. The World Organisation for Animal Health is an associate member of the VICH. The VICH Secretariat, which coordinates the

preparation of documentation, is provided by HealthforAnimals.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''Effectiveness of Anthelmintics: Specific Recommendations for Bovines (Revision 1).'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

**II. Paperwork Reduction Act of 1995**

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in 21 CFR part 514 have been approved under OMB Control Number 0910–0032.

**III. Electronic Access**

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: August 8, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–17345 Filed 8–11–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2013–N–0375]**

### Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Agreement for Shipment of Devices for Sterilization

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

**DATES:** Submit written comments (including recommendations) on the collection of information by September 12, 2022.

**ADDRESSES:** To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://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. The OMB control number for this information collection is 0910–0131. Also include the FDA docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:** In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

**Agreement for Shipment of Devices for Sterilization—21 CFR 801.150**

*OMB Control Number 0910–0131—Extension*

Under sections 501(c) and 502(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351(c) and 352(a)), nonsterile devices that are labeled as sterile but are in interstate transit to a facility to be sterilized are adulterated and misbranded. FDA regulations at § 801.150(e) (21 CFR 801.150(e)) establish a control mechanism by which firms may manufacture and label medical devices as sterile at one establishment and ship the devices in interstate commerce for sterilization at another establishment, a practice that facilitates the processing of devices and is economically necessary for some firms.

Under § 801.150(e)(1), manufacturers and sterilizers may sign an agreement containing the following: (1) contact information of the firms involved and the identification of the signature authority of the shipper and receiver, (2) instructions for maintaining accountability of the number of units in each shipment, (3) acknowledgment that the devices that are nonsterile are being shipped for further processing, and (4) specifications for sterilization processing. This agreement allows the manufacturer to ship misbranded products to be sterilized without initiating regulatory action and provides FDA with a means to protect consumers from use of nonsterile products. During routine plant inspections, FDA normally reviews agreements that must be kept for 2 years after final shipment or delivery of devices (see § 801.150(a)(2)). The respondents to this collection of information are device manufacturers and contract sterilizers. FDA's estimate of the reporting burden is based on data obtained from industry in recent years. It is estimated that each of the firms subject to this requirement prepares an average of 37.5 written agreements each year. This estimate varies greatly, from 1 to 218, because some firms provide sterilization services on a part-time basis for only 1 customer, while others are large facilities with many customers. The average time required to prepare each written agreement is estimated to be 4 hours. This estimate varies depending on whether the agreement is the initial agreement or an annual renewal, on the format each firm elects to use, and on the length of time required to reach agreement. The estimate applies only to those portions of the written agreement that pertain to the requirements imposed by this regulation. The written agreement generally also includes contractual agreements that are a usual and customary business practice. The recordkeeping requirements of § 801.150(a)(2) consist of making copies and maintaining the records required under the third-party disclosure section of this collection.

In the **Federal Register** of March 15, 2022 (87 FR 14540), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

| 21 CFR part | Number of recordkeepers | Number of records per recordkeeper | Total annual records | Average burden per recordkeeping | Total hours [2] |
|---|---|---|---|---|---|
| Record retention, 801.150(a)(2) ..... | 218 | 37.5 | 8,175 | 0.50 (30 minutes) .. | 4,088 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Rounded to the nearest hour.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

| 21 CFR part | Number of respondents | Number of disclosures per respondent | Total annual disclosures | Average burden per disclosure | Total hours |
|---|---|---|---|---|---|
| Agreement and labeling requirements, 801.150(e) ..... | 218 | 37.5 | 8,175 | 4 | 32,700 |

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Our estimated burden for the information collection reflects an overall increase of 27,778 hours and a corresponding increase of 6,175 responses/records. We attribute this adjustment to an increase in the number of submissions we received over the last few years.

Dated: August 5, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–17325 Filed 8–11–22; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. FDA–2022–D–1494 (Formerly FDA–1990–D–0188)]**

### International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Effectiveness of Anthelmintics: Specific Recommendations for Caprines (Revision 1); Draft Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry GFI #97 (VICH GL14(R1)) entitled ''Effectiveness of Anthelmintics: Specific Recommendations for Caprines (Revision 1).'' This draft guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This revision clarifies the definition of adequate infection in individual animals, updates considerations for field studies, and makes additional clarifying changes.

**DATES:** Submit either electronic or written comments on the draft guidance by October 11, 2022 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

*Written/Paper Submissions*

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

*Instructions:* All submissions received must include the Docket No. [insert Docket No.] for ''Effectiveness of Anthelmintics: Specific Recommendations for Caprines (Revision 1).'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not

in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

*Docket:* For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Policy and Regulations Staff (HFV–6), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

**FOR FURTHER INFORMATION CONTACT:** Aimée Phillippi-Taylor, Center for Veterinary Medicine (HFV–114), Food and Drug Administration, 7500 Standish Pl, Rockville, MD 20855, 240–402–0601, *aimee.phillippi-taylor@fda.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

## I. Background

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## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/animal-veterinary/guidance-regulations/guidance-industry, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: August 8, 2022.

**Lauren K. Roth,**

*Associate Commissioner for Policy.*

[FR Doc. 2022–17318 Filed 8–11–22; 8:45 am]

**BILLING CODE 4164–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Indian Health Service

### Healthy Lifestyles in Youth Project

*Announcement Type:* New.

*Funding Announcement Number:* HHS–2022–IHS–HLY–0001.

*Assistance Listing (Catalog of Federal Domestic Assistance or CFDA) Number:* 93.933.

### Key Dates

*Application Deadline Date:* September 15, 2022.

*Earliest Anticipated Start Date:* September 30, 2022.

### I. Funding Opportunity Description

*Statutory Authority*

The Indian Health Service (IHS) is accepting applications for a cooperative agreement for the Healthy Lifestyles in Youth (HLY) Program. This program is authorized under the Snyder Act, 25 U.S.C. 13; and the Transfer Act, 42 U.S.C. 2001(a). This program is described in the Assistance Listings located at *https://sam.gov/content/home* (formerly known as the CFDA) under 93.933.

*Background*

This program promotes healthy lifestyles for American Indian and

Alaska Native (AI/AN) youth using the curriculum ''Together Raising Awareness for Indian Life'' (TRAIL) among selected Native Boys and Girls Club sites. Under this cooperative agreement, IHS proposes to enter into a collaborative effort/initiative with an entity that has experience working with Boys and Girls Clubs of America (BGCA), experience working with and implementing the TRAIL curriculum, and overall expertise and experience in addressing and evaluating healthy lifestyle techniques in AI/AN youth. The IHS issued the original funding opportunity announcement for the HLY cooperative agreement in 2003 and the program has been ongoing since that time.

*Purpose*

The purpose of this program is to support the IHS mission to improve the health of AI/AN youth through health promotion and health education programs. The goal of this IHS cooperative agreement is to address healthy lifestyle development and emphasize nutrition and physical activity for AI/AN children and youth 7 through 11 years of age. To do this, the awardee must meet the following objectives:

- Collaborate with selected Native American Boys and Girls Club sites, via a grant application process;
- Provide health and physical education programs;
- Help youth achieve and maintain healthy lifestyles through participation in fitness programs;
- Help youth acquire a range of physical skills; and
- Help youth develop a sense of teamwork and cooperation.

These early intervention strategies provide evidence based opportunities to reduce and/or halt the increasing trend of obesity and diabetes among youth and young adults. Native Boys and Girls Clubs that develop a health promotion program that includes the TRAIL curriculum may help curtail the effects of unhealthy eating behaviors and lack of physical activity that can lead to obesity, diabetes, and other chronic diseases later in life. The TRAIL curriculum was developed to provide information on good nutrition and to promote physical activity among youth participating in Native American Boys and Girls Clubs. The TRAIL curriculum is a 3-month (12 lessons) program that provides youth with a comprehensive understanding of healthy lifestyles in order to prevent diabetes. Woven throughout the program are self-esteem and prevention activities. Participants draw from Tribal traditions and history to learn about nutrition, healthy food choices, media influences, and the impact of diabetes. The TRAIL curriculum emphasizes the importance of teamwork and community service. Members engage in service projects to improve healthy lifestyles in their communities, including starting community gardens to connect youth to their food source and organizing community-wide physical fitness events.

The overall results show improvement in participant knowledge of diabetes, health, and healthy food choices, as well as improved levels of fitness and physical activity. To date, this cooperative agreement has funded over 95 Native American Boys and Girls Club sites that have established and implemented this curriculum project and have served over 22,144 AI/AN youth. Program test scores each year consistently indicate: (a) increased knowledge about diabetes; (b) increased physical activity; and, (c) increased ability to identify healthier food options (post-intervention scores vs. pre-intervention test scores). Program physical activity logs show participating AI/AN youth collectively perform approximately 20,000 hours of physical activity each year. Boys and Girls Clubs also report annually on the service projects that are carried out by TRAIL participants in their local communities.

Boys and Girl Club sites that are located outside of Tribal communities are not eligible.

The Boys and Girls Club sites selected by the awardee may use IHS grant funds to provide services to eligible IHS beneficiaries only. The awardee will: provide technical consultation; train; monitor; evaluate; and provide funds to support these activities.

*Required, Optional, and Allowable Activities*

1. Develop a written plan for the planning, implementation, and evaluation of this project to include overseeing at least 98 sites, as agreed upon with the IHS. The local evaluation effort should include local evidence-based practice (EBP) fidelity data and how data will integrate with the National Evaluation Frame. Complete this task within 30 days of the award date and obtain approval by the IHS.

2. Develop selection criteria for additional sites as well as announce, evaluate, and select new sites. Sites must submit documentation verifying that they serve only AI/AN youth from eligible IHS beneficiaries, as a requirement for selection by the awardee. Conduct a start-up planning meeting with new sites within 2 months of each site's initial selection and award.

3. Plan and conduct an orientation and training meeting for new sites within 2 months of selection. Submit agenda, training goals and objectives, and participant list to IHS within 1 month of completion of each orientation session.

4. Update TRAIL curriculum as needed/directed and implement use. Document any specific changes to the curriculum and note expected impacts on implementation, data collection and outcomes.

5. Develop, in consultation with the IHS, the implementation and technical assistance plan for the coordination of the selected Boys and Girls Club sites. Submit criteria to the IHS for approval.

6. Each site will implement the TRAIL program, emphasizing healthy behaviors, such as physical activity and nutrition. Each program plan will also include a parent component describing approaches for involving the families of participants.

7. Each site will implement Physical Activity Strength and Endurance Challenges 3 times, 6 to 8 weeks apart. Physical activity data will be collected and summarized.

8. Awardee will promote and facilitate local, state, and national partnerships for the purpose of establishing or enhancing program support that involves increasing physical activity and good nutrition for the tribally-managed Boys and Girls Club sites. This includes, but is not limited to, establishing other partners such as American Indian-Alaska Native Program Branch (AI–ANPB) of Head Start Programs, Wings of America, United National Indian Tribal Youth, Inc. (UNITY), Tribal colleges, BGCA, Tribal organizations, local community health providers, and other private organizations as appropriate.

9. Awardee will continue to implement current evaluation processes in consultation for the TRAIL project. At a minimum, the evaluation will include:

a. training attendance (gender, age, grade level);

b. pre- and post- tests to assess participant knowledge;

c. monthly activity logs from each site on the physical activity portion of their program. Daily data to be collected includes the date, number of minutes of physical activity, and number of children participating; and

d. information/log on parent and family participation in education and activity programs, community involvement and partnerships.

10. Submit collated and summarized data to the IHS. Work with the IHS in

drafting an evaluation summary at the end of the project period. Submit collated and summarized data and project evaluation summaries to all sites. Provide a minimum of annual reports (feedback) to each site on how their data compare to data (mean, median, and range) from other selected sites.

11. Provide ongoing technical support to the sites for the duration of the initiative. Provide training and technical assistance in all forms, *i.e.,* on-site, on-line, by phone, and mail. The planning, design, and delivery of training and technical assistance will support the local organization's long-term planning and outreach efforts. The training will be customized based on sites' capability and experience. Technical assistance will also be provided on program planning, implementation, evaluation, and data collection. Collaborate with the IHS to provide services to club sites. Maintain records and reports.

12. Provide technical assistance to the sites in developing a written work plan, with measurable goals, objectives and activities that adheres to the terms and conditions of the cooperative agreement.

13. Establish a formal agreement with Native American Boys and Girls Club sites, involving funding assistance and technical support to ensure clubs successfully implement the TRAIL program.

14. Submit to the IHS a written work plan and report describing each site's demographics, information on the number of youth in the eligible age range in the catchment area, the number that attend the Boys and Girls Clubs regularly, and the number served by this project, goals, objectives, activities, partnerships, and proposed outcomes.

15. Provide the IHS written quarterly reports on the evaluation outcomes, activity reports at each site, any parent involvement activities and other participation, description of the community partnerships, and other activities as appropriate. Conduct quarterly conference calls with IHS to review project status.

## II. Award Information

*Funding Instrument—Cooperative Agreement*

Estimated Funds Available

The total funding identified for the first budget year, starting in fiscal year (FY) 2022, is approximately $1,250,000. The funding available for competing and subsequent continuation awards issued under this announcement is subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

One award will be issued under this program announcement.

Period of Performance

The project period is for 5 years.

Cooperative Agreement

Cooperative agreements awarded by the Department of Health and Human Services (HHS) are administered under the same policies as grants. However, the funding agency, IHS, is anticipated to have substantial programmatic involvement in the project during the entire period of performance. Below is a detailed description of the level of involvement required of the IHS.

Substantial Agency Involvement Description for Cooperative Agreement

(1) Identify a core group of IHS staff to work with the awardee in providing technical assistance and guidance.

(2) Meet with the awardee to review awardee work plan and provide guidance on implementation, program evaluation, and data collection strategy and tools.

(3) Participate in quarterly conference calls. Work with the awardee to display the results of this project by publishing on shared websites as well as in jointly authored publications.

(4) Use the evidence-based program(s), framework(s), and data collection requirement(s) to develop a National Logic Model and Evaluation Plan to collect national program aggregate and local EBP fidelity data.

## III. Eligibility Information

*1. Eligibility*

To be eligible for this funding opportunity an applicant must be an organization with extensive experience developing and managing youth programs, health advocacy and education, and outreach related to AI/AN health care on a national scale.

The program office will notify any applicants deemed ineligible.

**Note:** Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as Tribal Resolutions, proof of nonprofit status, etc.

*2. Cost Sharing or Matching*

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

*3. Other Requirements*

Applications with budget requests that exceed the highest dollar amount outlined under Section II Award Information, Estimated Funds Available, or exceed the period of performance outlined under Section II Award Information, Period of Performance, are considered not responsive and will not be reviewed. The Division of Grants Management (DGM) will notify the applicant.

The following documentation is required (if applicable):

Tribal Resolution

The DGM must receive an official, signed Tribal Resolution prior to issuing a Notice of Award (NoA) to any Tribe or Tribal organization selected for funding. An applicant that is proposing a project affecting another Indian Tribe must include resolutions from all affected Tribes to be served. However, if an official signed Tribal Resolution cannot be submitted with the application prior to the application deadline date, a draft Tribal Resolution must be submitted with the application by the deadline date in order for the application to be considered complete and eligible for review. The draft Tribal Resolution is not in lieu of the required signed resolution but is acceptable until a signed resolution is received. If an application without a signed Tribal Resolution is selected for funding, the applicant will be contacted by the Grants Management Specialist (GMS) listed in this funding announcement and given 90 days to submit an official signed Tribal Resolution to the GMS. If the signed Tribal Resolution is not received within 90 days, the award will be forfeited.

Tribes organized with a governing structure other than a Tribal council may submit an equivalent document commensurate with their governing organization.

Proof of Nonprofit Status

Organizations claiming nonprofit status must submit a current copy of the 501(c)(3) Certificate with the application.

## IV. Application and Submission Information

*Grants.gov* uses a Workspace model for accepting applications. The Workspace consists of several online forms and three forms in which to upload documents—Project Narrative, Budget Narrative, and Other Documents. Give your files brief descriptive names. The filenames are key in finding specific documents during the objective review and in processing awards.

Upload all requested and optional documents individually, rather than combining them into a package. Creating a package creates confusion when trying to find specific documents. Such confusion can contribute to delays in processing awards, and could lead to lower scores during the objective review.

*1. Obtaining Application Materials*

The application package and detailed instructions for this announcement are available at *https://www.Grants.gov*.

Please direct questions regarding the application process to *DGM@ihs.gov*.

*2. Content and Form Application Submission*

Mandatory documents for all applicants include:

- Application forms:

1. SF–424, Application for Federal Assistance.

2. SF–424A, Budget Information—Non-Construction Programs.

3. SF–424B, Assurances—Non-Construction Programs.

4. Project Abstract Summary form.

- Project Narrative (not to exceed 25 pages). See Section IV.2.A, Project Narrative for instructions.
- Budget Justification/Narrative (not to exceed 5 pages). See Section IV.2.B, Budget Narrative for instructions.
- Tribal Resolution(s) as described in Section III, Eligibility.
- 501(c)(3) Certificate, if applicable.
- Biographical sketches for all Key Personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL), if applicant conducts reportable lobbying.
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost (IDC) rate agreement (required in order to receive IDC).
- Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).

Acceptable forms of documentation include:

1. Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or

2. Face sheets from audit reports. Applicants can find these on the FAC website at *https://facdissem.census.gov/*.

Public Policy Requirements

All Federal public policies apply to IHS grants and cooperative agreements. Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of their exclusion from benefits limited by Federal law to individuals eligible for benefits and services from the IHS. See *https://www.hhs.gov/grants/grants/grants-policies-regulations/index.html.*

Requirements for Project and Budget Narratives

A. Project Narrative

This narrative should be a separate document that is no more than 25 pages and must: (1) have consecutively numbered pages; (2) use black font 12 points or larger (applicants may use 10 point font for tables); (3) be single-spaced; and (4) be formatted to fit standard letter paper (8½ x 11 inches). Do not combine this document with any others.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation Criteria) and place all responses and required information in the correct section noted below or they will not be considered or scored. If the narrative exceeds the overall page limit, the application will be considered not responsive and will not be reviewed. The 25-page limit for the project narrative does not include the work plan, standard forms, Tribal Resolutions, budget, budget narratives, and/or other items. Page limits for each section within the project narrative are guidelines, not hard limits.

There are three parts to the narrative: Part 1—Introduction and Need for Assistance; Part 2—Work Plan; and Part 3—Organizational Capabilities. See below for additional details about what must be included in the narrative. The page limits below are for each narrative and budget submitted.

Part 1: Program Information (Limit—5 Pages)

Section 1: Needs

Please provide a description of the need for assistance with offering this program. Applicant should demonstrate knowledge of: health concerns for AI/AN youth; health promotion activities in Tribal communities such as BGCA; and working with Tribes and Tribal organizations.

Part 2: Program Planning and Evaluation (Limit—10 Pages)

Section 1: Program Plans

This section should demonstrate the soundness and effectiveness of the proposal. The work plan should be designed to describe how and when the sites will be selected; describe how the sites will be trained on the curriculum and provided technical assistance; and describe how sites will be supported for a physical activity program with the equipment and participant incentives.

Section 2: Program Evaluation

Describe the plan for collecting data, monitoring, and assuring quality and quantity of data and the plan for evaluating and reporting program results.

Part 3: Organizational Capabilities (Limit—10 Pages)

Describe the broader capacity of the organization to complete the project outlined in the work plan, including: (1) identification and bios for key personnel responsible for completing tasks; (2) description of the structure of the organization and chain of responsibility for successful completion of the project outline in the work plan; (3) description of financial and project management capacity, including information regarding similarly sized projects in scope and financial assistance as well as other grants and projects successfully completed; (4) description of national experience in providing administrative and support services to Tribal youth organizations, education agencies and other Tribal programs for the benefit of AI/AN children and youth and Tribal communities (indicate experience in national partnerships or national support efforts on behalf of AI/AN communities especially as it pertains to health concerns); (5) description of equipment and space available for use during the proposed project; and (6) description of specialized experience working with Native Boys and Girls Club sites and the TRAIL curriculum program.

B. Budget Narrative (Limit—5 Pages)

Provide a budget narrative that explains the amounts requested for each line item of the budget from the SF–424A (Budget Information for Non-Construction Programs) for the first year of the project. The applicant can submit with the budget narrative a more detailed spreadsheet than is provided by the SF–424A (the spreadsheet will not be considered part of the budget narrative). The budget narrative should specifically describe how each item will support the achievement of proposed objectives. Be very careful about showing how each item in the ''Other'' category is justified. For subsequent budget years (see Multi-Year Project Requirements in Section V.1, Application Review Information, Evaluation Criteria), the additional pages should highlight the changes from the first year or clearly indicate that there are no substantive budget changes during the period of performance. Do

NOT use the budget narrative to expand the project narrative.

*3. Submission Dates and Times*

Applications must be submitted through *Grants.gov* by 11:59 p.m. Eastern Time on the Application Deadline Date. Any application received after the application deadline will not be accepted for review. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the application process, contact *Grants.gov* Customer Support (see contact information at *https://www.Grants.gov*). If problems persist, contact Mr. Paul Gettys (*Paul.Gettys@ihs.gov*), Deputy Director, DGM, by telephone at (301) 443–2114. Please be sure to contact Mr. Gettys at least 10 days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

The IHS will not acknowledge receipt of applications.

*4. Intergovernmental Review*

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

*5. Funding Restrictions*

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and indirect costs.
- Only one cooperative agreement may be awarded per applicant.

*6. Electronic Submission Requirements*

All applications must be submitted via *Grants.gov*. Please use the *https://www.Grants.gov* website to submit an application. Find the application by selecting the ''Search Grants'' link on the homepage. Follow the instructions for submitting an application under the Package tab. No other method of application submission is acceptable.

If you cannot submit an application through *Grants.gov*, you must request a waiver prior to the application due date. This contact must be initiated prior to the application due date or your waiver request will be denied. Prior approval must be requested and obtained from Mr. Paul Gettys, Deputy Director, DGM. You must send a written waiver request to *GrantsPolicy@ihs.gov* with a copy to *Paul.Gettys@ihs.gov*. The waiver request must be documented in writing (emails are acceptable) before submitting an application by some other method, and must include clear justification for the need to deviate from the required application submission process.

If the DGM approves your waiver request, you will receive a confirmation of approval email containing submission instructions. You must include a copy of the written approval with the application submitted to the DGM. Applications that do not include a copy of the signed waiver from the Deputy Director of the DGM will not be reviewed. The Grants Management Officer of the DGM will notify the applicant via email of this decision. Applications submitted under waiver must be received by the DGM no later than 5:00 p.m. Eastern Time on the Application Deadline Date. Late applications will not be accepted for processing. Applicants that do not register for both the System for Award Management (SAM) and *Grants.gov* and/or fail to request timely assistance with technical issues will not be considered for a waiver to submit an application via alternative method.

Please be aware of the following:

- Please search for the application package in *https://www.Grants.gov* by entering the Assistance Listing (CFDA) number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application, please contact *Grants.gov* Customer Support (see contact information at *https://www.Grants.gov*).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to 20 working days.
- Please follow the instructions on *Grants.gov* to include additional documentation that may be requested by this funding announcement.
- Applicants must comply with any page limits described in this funding announcement.
- After submitting the application, you will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The IHS will not notify you that the application has been received.

System for Award Management (SAM)

Organizations that are not registered with SAM must access the SAM online registration through the SAM home page at *https://sam.gov*. United States (U.S.) organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active. Please see *SAM.gov* for details on the registration process and timeline. Registration with the SAM is free of charge but can take several weeks to process. Applicants may register online at *https://sam.gov*.

Unique Entity Identifier

Your *SAM.gov* registration now includes a Unique Entity Identifier (UEI), generated by *SAM.gov*, which replaces the DUNS number obtained from Dun and Bradstreet. *SAM.gov* registration no longer requires a DUNS number.

Check your organization's *SAM.gov* registration as soon as you decide to apply for this program. If your *SAM.gov* registration is expired, you will not be able to submit an application. It can take several weeks to renew it or resolve any issues with your registration, so do not wait.

Check your *Grants.gov* registration. Registration and role assignments in *Grants.gov* are self-serve functions. One user for your organization will have the authority to approve role assignments, and these must be approved for active users in order to ensure someone in your organization has the necessary access to submit an application.

The Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), requires all HHS awardees to report information on sub-awards. Accordingly, all IHS awardees must notify potential first-tier sub-awardees that no entity may receive a first-tier sub-award unless the entity has provided its UEI number to the prime awardee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

Additional information on implementing the Transparency Act, including the specific requirements for SAM, are available on the DGM Grants Management, Policy Topics web page at *https://www.ihs.gov/dgm/policytopics/*.

## V. Application Review Information

Possible points assigned to each section are noted in parentheses. The project narrative and budget narrative should include only the first year of activities; information for multi-year projects should be included as a separate document. See ''Multi-year Project Requirements'' at the end of this section for more information. The project narrative should be written in a

manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to fully understand the project. Attachments requested in the criteria do not count toward the page limit for the narratives. Points will be assigned to each evaluation criteria adding up to a total of 100 possible points. Points are assigned as follows:

*1. Evaluation Criteria*

A. Introduction and Need for Assistance (20 Points)

This section should demonstrate knowledge of health concerns and issues regarding AI/AN youth, health promotion activities in Tribal communities, and working with Tribes and Tribal organizations.

B. Work Plan (30 Points)

This section should demonstrate a sound and effective annual work plan that will support accomplishment of deliverables and milestones of the TRAIL project. The work plan should be designed to:

a. Describe how and when the sites will be selected.

b. Describe how the sites will be trained on the curriculum and provided technical assistance.

c. Describe the plan for collecting data, monitoring, and assuring quality and quantity of data.

d. Describe the plan for evaluating and reporting.

e. Describe how sites will be supported for a physical activity program.

C. Organizational Capabilities (40 Points)

This section should outline the broader capacity of the organization to complete the project outlined in the work plan. It includes the identification of personnel responsible for completing tasks and the chain of responsibility for successful completion of the project outline in the work plan. The section should:

a. Describe the structure of the organization.

b. Describe the ability of the organization to manage the proposed project and include information regarding similarly sized projects in scope and financial assistance as well as other grants and projects successfully completed.

c. Describe what equipment (*i.e.,* phone, websites, etc.) and facility space (*i.e.,* office space) will be available for use during the proposed project. Include information about any equipment not currently available that will be purchased throughout the agreement.

d. List and provide bios for key personnel who will work on the project. The section should demonstrate knowledge in:

i. Financial and project management.

ii. Nationwide experience in providing administrative and support services to Tribal youth organizations, education agencies and other Tribal programs for the benefit of children and youth.

iii. AI/AN youth and Tribal communities and indicate experience in national partnerships or national support efforts on behalf of AI/AN communities especially as it pertains to health concerns.

iv. Experience working with Tribal Boys and Girls Club sites and the TRAIL curriculum program.

v. Local and national evaluation, including data collection and analysis

D. Categorical Budget and Budget Justification (10 Points)

This section should provide a clear estimate of the project program costs and justification for expenses for the entire cooperative agreement period. The budget and budget justification should be consistent with the tasks identified in the work plan.

a. Categorical budget (Form SF–424A, Budget Information Non Construction Programs) completed for the first budget period.

b. Narrative justification for all costs, explaining why each line item is necessary or relevant to the proposed project. Include sufficient details to facilitate the determination of cost allow ability.

c. Indication of any special start-up costs.

d. Budget justification should include a description of the planned costs and how they relate to or support the proposed project activities.

Multi-Year Project Requirements

Applications must include a brief project narrative and budget (one additional page per year) addressing the developmental plans for each additional year of the project. This attachment will not count as part of the project narrative or the budget narrative. This narrative should include discussion regarding the meaningful use of program implementation, process, and fidelity data.

Additional documents can be uploaded as Other Attachments in *Grants.gov.* These can include:

- Work plan, logic model, and/or timeline for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Rate Agreement.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.,* data tables, key news articles, etc.).

*2. Review and Selection*

Each application will be prescreened for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the Objective Review Committee (ORC) based on evaluation criteria. Incomplete applications and applications that are not responsive to the administrative thresholds (budget limit, period of performance limit) will not be referred to the ORC and will not be funded. The program office will notify the applicant of this determination.

Applicants must address all program requirements and provide all required documentation.

*3. Notifications of Disposition*

All applicants will receive an Executive Summary Statement from the IHS Division of Diabetes Treatment and Prevention within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application. The summary statement will be sent to the Authorizing Official identified on the face page (SF–424) of the application.

A. Award Notices for Funded Applications

The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the award, the terms and conditions of the award, the effective date of the award, the budget period, and period of performance. Each entity approved for funding must have a user account in GrantSolutions in order to retrieve the NoA. Please see the Agency Contacts list in Section VII for the systems contact information.

B. Approved but Unfunded Applications

Approved applications not funded due to lack of available funds will be held for 1 year. If funding becomes available during the course of the year, the application may be reconsidered.

*Note:* Any correspondence, other than the official NoA executed by an IHS

grants management official announcing to the project director that an award has been made to their organization, is not an authorization to implement their program on behalf of the IHS.

## VI. Award Administration Information

*1. Administrative Requirements*

Awards issued under this announcement are subject to, and are administered in accordance with, the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards currently in effect or implemented during the period of award, other Department regulations and policies in effect at the time of award, and applicable statutory provisions. At the time of publication, this includes 45 CFR part 75, at *https://www.govinfo.gov/content/pkg/CFR-2020-title45-vol1/pdf/CFR-2020-title45-vol1-part75.pdf.*
- Please review all HHS regulatory provisions for Termination at 45 CFR 75.372, at *https://www.ecfr.gov/cgi-bin/retrieveECFR?gp&SID=2970eec67399fab1413ede53d7895d99&mc=true&n=pt45.1.75&r=PART&ty=HTML&se45.1.75_1372#se45.1.75_1372.*

C. Grants Policy:

- HHS Grants Policy Statement, Revised January 2007, at *https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf.*

D. Cost Principles:

- Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' at 45 CFR part 75 subpart E.

E. Audit Requirements:

- Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' at 45 CFR part 75 subpart F.

F. As of August 13, 2020, 2 CFR 200 was updated to include a prohibition on certain telecommunications and video surveillance services or equipment. This prohibition is described in 2 CFR 200.216. This will also be described in the terms and conditions of every IHS grant and cooperative agreement awarded on or after August 13, 2020.

*2. Indirect Costs*

This section applies to all awardees that request reimbursement of IDC in their application budget. In accordance with HHS Grants Policy Statement, Part II–27, the IHS requires applicants to obtain a current IDC rate agreement and submit it to the DGM prior to the DGM issuing an award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate agreement is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate agreement is provided to the DGM.

Per 45 CFR 75.414(f) Indirect (F&A) costs, ''any non-Federal entity (NFE) [*i.e.,* applicant] that has never received a negotiated indirect cost rate, . . . may elect to charge a de minimis rate of 10 percent of modified total direct costs which may be used indefinitely. As described in Section 75.403, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as the NFE chooses to negotiate for a rate, which the NFE may apply to do at any time.''

Electing to charge a de minimis rate of 10 percent only applies to applicants that have never received an approved negotiated indirect cost rate from HHS or another cognizant Federal agency. Applicants awaiting approval of their indirect cost proposal may request the 10 percent de minimis rate. When the applicant chooses this method, costs included in the indirect cost pool must not be charged as direct costs to the grant.

Available funds are inclusive of direct and appropriate indirect costs. Approved indirect funds are awarded as part of the award amount, and no additional funds will be provided.

Generally, IDC rates for IHS awardees are negotiated with the Division of Cost Allocation at *https://rates.psc.gov/* or the Department of the Interior (Interior Business Center) at *https://ibc.doi.gov/ICS/tribal.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under ''Agency Contacts'' or write to *DGM@ihs.gov.*

*3. Reporting Requirements*

The awardee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in the imposition of special award provisions and/or the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the awardee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports must be submitted electronically by attaching them as a ''Grant Note'' in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please use the form under the Recipient User section of *https://www.grantsolutions.gov/home/getting-started-request-a-user-account/.*

Download the Recipient User Account Request Form, fill it out completely, and submit it as described on the web page and in the form.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required annually. The progress reports are due within 30 days after the reporting period ends (specific dates will be listed in the NoA Terms and Conditions). These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the period of performance.

B. Financial Reports

Federal Financial Reports are due 30 days after the end of each budget period, and a final report is due 90 days after the end of the period of performance. Awardees are responsible and accountable for reporting accurate information on all required reports: the Progress Reports and the Federal Financial Report.

C. Data Collection and Reporting

The BGCA defines impact as the contribution a Club makes to the attitudes, skills, values, and behaviors of Club members that enables them to succeed in adulthood. BGCA has designed a model called Formula for Impact—a roadmap for Clubs to help ensure that members achieve BGCA's priority outcomes of Academic Success, Good Character and Citizenship, and Healthy Lifestyles. These priority outcomes are achieved through the

implementation of BGCA's national programs; education and careers, character and leadership, health and life skills, the arts, sports, fitness and recreation, and specialized programs. Through Formula for Impact, BGCA and Clubs are able to use indicators to track and assess their impact, as well as demonstrate it in a consistent and meaningful way. Each Boys & Girls Club is required to complete the Formula for Impact Assessment annually.

The National Youth Outcomes Initiative (NYOI) is an online data management tool that is designed to collect data from Clubs, compile that information, and provides reports on impact back to Clubs and BGCA. The NYOI was developed via the National Commission on Impact's National Outcomes Database and Reporting Tool. One of the priority outcomes tracked through NYOI is Healthy Lifestyles. The indicators measured under this outcome go hand-in-hand with the indicators measured throughout the TRAIL program. In addition, the Good Character and Citizenship indicators support the TRAIL program requirement of participants engaging with their community and community health partners.

Healthy Lifestyles Indicators:

- Regular physical activity (monitored daily)
- Good nutrition (examples provided)
- Avoidance of risky behaviors

Good Character and Citizenship Indicators:

- Contributions to Club and local community
- Positive opportunities
- Building conflict resolution skills

NYOI also measures Club members' engagement in the following physical activities:

- Number of days per week they participate in physical activity during their free time;
- Number of days per week they participate in physical activity during school physical education class;
- Number of days per week they participate in physical activity at the Club;
- Daily fruit and vegetable intake;
- Number of sugar sweetened drinks consumed per day;
- Alcohol, drug, and tobacco use and abuse;
- Sexual activity and condom use;
- Demographic information including gender, age, and grade level of AI/AN youth participants;
- Pre- and Post-tests to assess participant knowledge; and
- Quarterly progress reports to capture program implementation tasks and feedback received from youth participants, family members, and community members.

D. Federal Sub-award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for awardees of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

The IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs, and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation threshold met for any specific reporting period.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Management website at *https://www.ihs.gov/dgm/policytopics/.*

E. Non-Discrimination Legal Requirements for Awardees of Federal Financial Assistance

Should you successfully compete for an award, recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, disability, age and, in some circumstances, religion, conscience, and sex (including gender identity, sexual orientation, and pregnancy). This includes ensuring programs are accessible to persons with limited English proficiency and persons with disabilities. The HHS Office for Civil Rights provides guidance on complying with civil rights laws enforced by HHS. Please see *https://www.hhs.gov/civil-rights/for-providers/provider-obligations/index.html* and *https://www.hhs.gov/civil-rights/for-individuals/nondiscrimination/index.html.*

- Recipients of FFA must ensure that their programs are accessible to persons with limited English proficiency. For guidance on meeting your legal obligation to take reasonable steps to ensure meaningful access to your programs or activities by limited English proficiency individuals, see *https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/fact-sheet-guidance/index.html* and *https://www.lep.gov.*
- For information on your specific legal obligations for serving qualified individuals with disabilities, including reasonable modifications and making services accessible to them, see *https://www.hhs.gov/civil-rights/for-individuals/disability/index.html.*
- HHS funded health and education programs must be administered in an environment free of sexual harassment. See *https://www.hhs.gov/civil-rights/for-individuals/sex-discrimination/index.html.*
- For guidance on administering your program in compliance with applicable Federal religious nondiscrimination laws and applicable Federal conscience protection and associated anti-discrimination laws, see *https://www.hhs.gov/conscience/conscience-protections/index.html* and *https://www.hhs.gov/conscience/religious-freedom/index.html.*

F. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the FAPIIS at *https://www.fapiis.gov/fapiis/#/home* before making any award in excess of the simplified acquisition threshold (currently $250,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. The IHS will consider any comments by the applicant, in addition to other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants, as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, NFEs are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive Federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, the IHS must require an NFE or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. All applicants and awardees must disclose in writing, in a timely manner, to the IHS and to the HHS Office of Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. 45 CFR 75.113.

Disclosures must be sent in writing to:

U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Marsha Brookins, Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, (Include ''Mandatory Grant Disclosures'' in subject line), *Office:* (301) 443–4750, *Fax:* (301) 594–0899, *Email: DGM@ihs.gov*

AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW, Cohen Building, Room 5527, Washington, DC 20201, *URL: https://oig.hhs.gov/fraud/report-fraud/*, (Include ''Mandatory Grant Disclosures'' in subject line), *Fax:* (202) 205–0604 (Include ''Mandatory Grant Disclosures'' in subject line) or *Email: MandatoryGranteeDisclosures@oig.hhs.gov*

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (see 2 CFR part 180 and 2 CFR part 376).

**VII. Agency Contacts**

1. Questions on the programmatic issues may be directed to: Ms. Carmen Licavoli Hardin, Acting Director, Indian Health Service, Division of Diabetes Treatment and Prevention, 5600 Fishers Lane, Mail Stop: 08N34A&B, Rockville, MD 20897, *Phone:* 1–844–IHS–DDTP (1–844–447–3387), *Fax:* 301–594–6213, *Email: diabetesprogram@ihs.gov.*

2. Questions on grants management and fiscal matters may be directed to: Donald Gooding, Senior Grants Management Specialist, Indian Health Service, Division of Grants Management, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, *Phone:* 301–443–2298, *Email: Donald.Gooding@ihs.gov.*

3. Questions on systems matters may be directed to: Paul Gettys, Deputy Director, Indian Health Service, Division of Grants Management, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, *Phone:* (301) 443–2114; or the DGM main line (301) 443–5204, *E-Mail: Paul.Gettys@ihs.gov.*

**VIII. Other Information**

The Public Health Service strongly encourages all grant, cooperative agreement, and contract awardees to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

**Elizabeth A. Fowler,**

*Acting Director, Indian Health Service.*

[FR Doc. 2022–17403 Filed 8–11–22; 8:45 am]

**BILLING CODE 4165–16–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Human Genome Research Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Human Genome Research.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend as well as those who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be videocast and can be accessed from *https://www.genome.gov/about-nhgri/Institute-Advisors/National-Advisory-Council-for-Human-Genome-Research.*

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Council for Human Genome Research.

*Date:* September 19–20, 2022.

*Closed:* September 19, 2022, 9:00 a.m. to 9:30 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892.

*Open:* September 19, 2022, 10:00 a.m. to 6:30 p.m.

*Agenda:* Report of Institute Director and Institute Staff.

*Place:* National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892.

*Closed:* September 20, 2022, 10:00 a.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892.

*Contact Person:* Rudy O. Pozzatti, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 6700B Rockledge Drive, Suite 1100, Bethesda, MD 20892, (301) 402–0838, *pozzattr@mail.nih.gov.*

Any interested person may file written comments with the committee within 15 days after the meeting by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

*Additional Health and Safety Guidance:* Before attending a meeting at an NIH facility, it is important that visitors review the NIH COVID–19 Safety Plan at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/Pages/default.aspx* and the NIH testing and assessment web page at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/COVID-assessment-testing/Pages/visitor-testing-requirement.aspx* for information about requirements and procedures for entering NIH facilities, especially when COVID–19 community

levels are medium or high. In addition, the Safer Federal Workforce website has FAQs for visitors at *https://www.saferfederalworkforce.gov/faq/visitors/.* Please note that if an individual has a COVID–19 diagnosis within 10 days of the meeting, that person must attend virtually. (For more information please read NIH's Requirements for Persons after Exposure at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/COVID-assessment-testing/Pages/persons-after-exposure.aspx* and What Happens When Someone Tests Positive at *https://ors.od.nih.gov/sr/dohs/safety/NIH-covid-19-safety-plan/COVID-assessment-testing/Pages/test-positive.aspx.*) Anyone from the public can attend the open portion of the meeting virtually via the NIH Videocasting website (*http://videocast.nih.gov*). Please continue checking these websites, in addition to the committee website listed below, for the most up to date guidance as the meeting date approaches.

Information is also available on the Institute's/Center's home page: *http://www.genome.gov/council,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: August 8, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–17304 Filed 8–11–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; Aging Bone/Muscle.

*Date:* October 6, 2022.

*Time:* 12:30 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Nijaguna Prasad, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Bldg., Suite 2W200, Bethesda, MD 20892, (301) 496–9667, *prasadnb@nia.nih.gov.*

Information is also available on the Institute's/Center's home page: *www.nia.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 8, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–17307 Filed 8–11–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel, Hearing loss and Alzheimer's.

*Date:* September 13, 2022.

*Time:* 12:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Anita H. Undale, Ph.D., MD, Scientific Review Branch, National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 827–7428, *anita.undale@nih.gov.*

Information is also available on the Institute's/Center's home page: *www.nia.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 8, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–17303 Filed 8–11–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Aging Special Emphasis Panel; Senescence-Cell Death Decisions in Aging.

*Date:* November 7, 2022.

*Time:* 11:30 a.m. to 5:30 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Joshua Jin-Hyouk Park, Scientific Review Officer, Scientific Review Branch, NIA (National Institute on Aging), GWY BG RM 2W200, 7201 Wisconsin Ave, Bethesda, MD 20892, (301) 496–6208, *joshua.park4@nih.gov.*

Information is also available on the Institute's/Center's home page: *www.nia.nih.gov/,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 8, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–17305 Filed 8–11–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; 60-Day Comment Request; Scientific Information Reporting System (SIRS) (NIGMS)

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Institute of General Medical Sciences (NIGMS), will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

**DATES:** Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dr. Ming Lei, Director, Division for Research Capacity Building NIGMS, NIH, 45 Center Drive, Room 2AS44C, MSC–6200, Bethesda, Maryland 20892 or call non-toll-free number (301) 827–5323 or email your request, including your address to: *leim@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

**SUPPLEMENTARY INFORMATION:** Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Proposed Collection Title:* Scientific Information Reporting System (SIRS), 0925–0735, Expiration Date 10/31/2022, REINSTATEMENT WITHOUT CHANGE, National Institute of General Medical Sciences (NIGMS), National Institutes of Health (NIH).

*Need and Use of Information Collection:* The SIRS is an online data collection system whose purpose is to obtain supplemental information to the annual Research Performance Progress Report (RPPR) submitted by grantees of the Institutional Development Award (IDeA) Program and the Native American Research Centers for Health (NARCH) Program. The SIRS will collect program-specific data not requested in the RPPR data collection system. The IDeA Program is a congressionally mandated, long-term interventional program administered by NIGMS aimed at developing and/or enhancing the biomedical research competitiveness of States and Jurisdictions that lag in NIH funding. The NARCH Program is an interagency initiative that provides support to American Indian and Alaska Native (AI/AN) tribes and organizations for conducting research in their communities in order to address health disparities, and to develop a cadre of competitive AI/AN scientists and health professionals. The data collected by SIRS will provide valuable information for the following purposes: (1) evaluation of progress by individual grantees towards achieving grantee-designated and program-specified goals and objectives, (2) evaluation of the overall program for effectiveness, efficiency, and impact in building biomedical research capacity and capability, and (3) analysis of outcome measures to determine need for refinements and/or adjustments of different program features including but not limited to initiatives and eligibility criteria. Data collected from SIRS will be used for various regular or *ad hoc* reporting requests from interested stakeholders that include members of Congress, state and local officials, other federal agencies, professional societies, media, and other parties.

OMB approval is requested for three years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 841.

ESTIMATED ANNUALIZED BURDEN HOURS

| Form name | Type of respondent | Number of respondents | Number of responses per respondent | Average time per response (in hours) | Total annual burden hours |
|---|---|---|---|---|---|
| SIRS .... | Principal Investigators, COBRE Phase I | 54 | 1 | 4 | 216 |
| SIRS .... | Principal Investigators, COBRE Phase II | 34 | 1 | 4 | 136 |
| SIRS .... | Principal Investigators, COBRE Phase III | 54 | 1 | 4 | 216 |
| SIRS .... | Principal Investigators, INBRE | 24 | 1 | 6 | 144 |
| SIRS .... | Principal Investigators, IDeA–CTR | 11 | 1 | 4 | 44 |
| SIRS .... | Principal Investigators, NARCH | 17 | 1 | 5 | 85 |
| | Total | 194 | 194 | ..... | 841 |

Dated: August 8, 2022.

**David N. Bochner,**

*Project Clearance Liaison, National Institute of General Medical Sciences, National Institutes of Health.*

[FR Doc. 2022–17377 Filed 8–11–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute on Alcohol Abuse and Alcoholism Initial Review Group; Clinical, Treatment and Health Services Research Study Section.

*Date:* October 12, 2022.

*Time:* 9:00 a.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Luis Espinoza, Ph.D., Scientific Review Officer, Extramural Project Review Branch, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive, Room 2109, Bethesda, MD 20892, (301) 443–8599, *espinozala@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants; 93.701, ARRA Related Biomedical Research and Research Support Awards., National Institutes of Health, HHS)

Dated: August 8, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–17309 Filed 8–11–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Kidney, Urologic and Hematologic Diseases D Study Section.

*Date:* October 18–20, 2022.

*Time:* 5:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Video Meeting).

*Contact Person:* Jason D. Hoffert, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7343, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–496–9010, *hoffertj@niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 9, 2022.

**Miguelina Perez,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2022–17380 Filed 8–11–22; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2022–0344]**

### National Chemical Transportation Safety Advisory Committee; Vacancies

**AGENCY:** U.S. Coast Guard, Department of Homeland Security.

**ACTION:** Request for applications.

**SUMMARY:** The U.S. Coast Guard is accepting applications to fill eight vacancies on the National Chemical Transportation Safety Advisory Committee (Committee). This Committee advises the Secretary of Homeland Security, through the Commandant of the U.S. Coast Guard, on matters relating to the safe and secure marine transportation of hazardous materials.

**DATES:** Completed applications must reach the U.S. Coast Guard on or before September 12, 2022.

**ADDRESSES:** Applications must be emailed to *Ethan.T.Beard@uscg.mil* with subject line ''Application for NCTSAC''.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Ethan Beard, Alternate Designated Federal Officer of the National Chemical Transportation Safety Advisory Committee; telephone 202–372–1419 or email at *Ethan.T.Beard@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The National Chemical Transportation Safety Advisory Committee was established on December 4, 2018, by section 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018,* Public Law No 115–282 (codified at 46 U.S.C. 15101). The Committee advises the Secretary of Homeland Security, through the Commandant of the U.S. Coast Guard, on matter relating to the safe and secure marine transportation of hazardous material. The Committee operates under the provisions of the *Federal Advisory Committee Act,* (5 U.S.C. Appendix), and 46 U.S.C. 15109.

The Committee is statutorily required to meet at least once a year; however, it typically holds meetings at least twice a year. Meetings are held at a location selected by the U.S. Coast Guard. All members serve at their own expense and receive no salary or other compensation from the Federal Government. Members will not be reimbursed for travel in accordance with the Committee's charter.

In this solicitation for Committee members, applicants will be considered for eight (8) positions to represent the following entities:

- Chemical manufacturing entities;
- Entities related to marine handling or transportation of chemicals;
- Vessel design and construction entities;
- Marine safety or security entities; and
- Marine environmental protection entities.

Each member of the Committee must have particular expertise, knowledge, and experience on matters related to the

safe and secure marine transportation of hazardous materials. The Secretary of Homeland Security may require an individual to have passed an appropriate security background examination before appointment to the Committee, 46 U.S.C. 15109(f)(4). As required by 46 U.S.C. 15109(f)(6), if you are appointed as a member of the Committee, your membership term will expire on December 31st of the third full year after the effective date of your appointment. Members serve at the pleasure of the Secretary of Homeland Security and may be removed prior to the end of their term for just cause.

In order for the Department to fully leverage broad-ranging experience and education, the National Chemical Transportation Safety Advisory Committee must be diverse with regard to professional and technical expertise. The Department is committed to pursuing opportunities, consistent with applicable law, to compose a committee that reflects the diversity of the nation's people.

If you are interested in applying to become a member of the Committee, email your application to *Ethan.T.Beard@uscg.mil* as provided in the **ADDRESSES** section of this notice. Applications must include: (1) a cover letter expressing interest in an appointment to the National Chemical Transportation Safety Advisory Committee; (2) a resume detailing the applicant's relevant experience and (3) a brief biography of the applicant. The Coast Guard will not consider incomplete or late applications.

Dated: August 8, 2022.

**Jeffrey G. Lantz,**

*Director of Commercial Regulations and Standards.*

[FR Doc. 2022–17396 Filed 8–11–22; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

**[Docket No. USCG–2022–0103]**

### Notification of the Removal of Conditions of Entry on Vessels Arriving From Cote d'Ivoire

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice.

**SUMMARY:** The Coast Guard announces that it is removing the conditions of entry on vessels arriving from the country of Cote d'Ivoire. Based on the results of the most recent country visit, the Coast Guard has determined that Cote d'Ivoire is now substantially implementing the International Ship and Port Facility Security Code and has effective anti-terrorism measures in place.

**DATES:** The policy announced in this notice is effective August 2, 2022

**FOR FURTHER INFORMATION CONTACT:** For information about this document call or email J.J. Hudson, Chief, Office of International and Domestic Port Security, United States Coast Guard, telephone 202–372–1173, *Juliet.J.Hudson@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

#### Background and Purpose

The authority for this notice is 5 U.S.C. 552(a) (''Administrative Procedure Act''), 46 U.S.C. 70110 (''Maritime Transportation Security Act of 2002''), and Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3 (II)(97.f). As delegated, section 70110(a) authorizes the Coast Guard to impose conditions of entry on vessels arriving in U.S. waters from ports that the Coast Guard has not found to maintain effective anti-terrorism measures.

In 2011, the Coast Guard determined that effective anti-terrorism measures were not in place in the ports of Cote d'Ivoire. Accordingly, conditions of entry were imposed on vessels arriving from Cote d'Ivoire. Based on recent assessments, the Coast Guard has determined that Cote d'Ivoire is maintaining effective anti-terrorism measures, and the Coast Guard is, accordingly, removing the conditions of entry announced in previously published Notices. With this notice, the current list of countries assessed and not maintaining effective anti-terrorism measures is as follows: Cambodia, Cameroon, Comoros, Djibouti, Equatorial Guinea, The Gambia, Guinea-Bissau, Iran, Iraq, Libya, Madagascar, Micronesia, Nauru, Nigeria, Republic of Seychelles, Sao Tome and Principe, Syria, Timor-Leste, Venezuela, and Yemen. The current Port Security Advisory is available at: *http://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/International-Domestic-Port-Assessment/.*

Dated: August 3, 2022.

**Peter W. Gautier,**

*Vice Admiral, U.S. Coast Guard, Deputy Commandant for Operations.*

[FR Doc. 2022–17372 Filed 8–11–22; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–6302–C–02]**

### Changes in Certain Office of Healthcare Programs Insurance Premiums; Correction

**AGENCY:** Office of General Counsel, HUD.

**ACTION:** Notice, correction.

**SUMMARY:** On May 19, 2022, HUD published a notice in the **Federal Register** entitled, ''Changes in Certain Office of Healthcare Programs Insurance Premiums.'' The notice contained a chart showing FHA Office of Health Care Facilities Insurance Premiums by Rate & Category. That chart incorrectly listed current upfront capitalized mortgage insurance premium (MIP) basis points for some of the listed programs. Additionally, the chart contained an incorrect note related to MIPs. Today's notice corrects the chart and associated note in the notice published on May 19, 2022.

**DATES:** Applicable: August 12, 2022.

**FOR FURTHER INFORMATION CONTACT:** John Hartung, Director, Policy, Risk Analysis & Lender Relations Division, Office of Residential Care Facilities, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 1222 Spruce Street, St. Louis, MO 63103–2836; telephone: 314–418–5238 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800–877–8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:** On May 19, 2022 (87 FR 30510) (FR Doc. 2022–10539), HUD issued a public notice announcing proposed mortgage insurance premium (MIP) changes to an earlier October 2, 2015, notice, for certain commitments issued or reissued beginning October 1, 2022.

The May 19, 2022, notice contained a chart that incorrectly listed current upfront capitalized MIP basis points for 232 NC/SR Healthcare Facilities w/o LIHTC, 232 NC/SR Healthcare Facilities with LIHTC, 223(d) Operating Loss Loan for Healthcare Facilities, 241(a) Supp. Loan for Healthcare Facilities w/o LIHTC, 241(a) Supp. Loan for Healthcare Facilities with LIHTC, 242 Hospitals, and 241(a) Supplemental Loans for Hospitals as each being 100. Under the October 2, 2015, notice, the correct current up front capitalized MIP basis points for each of these categories is, respectively, 77, 45, 95, 72, 45, 70,

and 65. Additionally, the May 19, 2022, notice contained a note to the chart that contained inaccurate and inapplicable information related to current upfront basis points.

**Correction**

In the **Federal Register** of May 19, 2022, in FR Doc. 2020–10539, on pages 30512–30513, replace the chart titled ''FHA Office of Health Care Facilities Insurance Premiums By Rate & Category'' with the following:

FHA OFFICE OF HEALTH CARE FACILITIES INSURANCE PREMIUMS BY RATE & CATEGORY

| Category | Current upfront capitalized MIP * basis points | Green and energy efficient: upfront capitalized MIP * basis points, effective 10–01–22 | Current annual MIP basis points | Green and energy efficient: annual MIP basis points, effective 10–01–22 |
|---|---|---|---|---|
| *Section 232 Healthcare Facilities (SNF, ALF, B&C):* | | | | |
| 232 NC/SR Healthcare Facilities w/o LIHTC | 77 | 25 | 77 | 25 |
| 232 NC/SR—Assisted Living Facilities with LIHTC | 45 | 25 | 45 | 25 |
| 232/223(f) Refi for Healthcare Facilities w/o LIHTC | 100 | 25 | 65 | 25 |
| 232/223(f) Refi for Healthcare Facilities with LIHTC | 100 | 25 | 45 | 25 |
| 232/223(a)(7) Refi of Healthcare Facilities w/o LIHTC | 50 | 25 | 55 | 25 |
| 232/223(a)(7) Refi of Healthcare Facilities with LIHTC | 50 | 25 | 45 | 25 |
| 223(d) Operating Loss Loan for Healthcare Facilities | 95 | n/a | 95 | n/a |
| 241(a) Supp. Loan for Healthcare Facilities w/o LIHTC | 72 | 25 | 72 | 25 |
| 241(a) Supp. Loan for Healthcare Facilities with LIHTC | 45 | 25 | 45 | 25 |
| 223(i) Fire Safety Equipment Loan | 100 | n/a | 100 | n/a |
| *Section 242 FHA Hospital Insurance Program:* | | | | |
| 242 Hospitals | 70 | n/a | 70 | n/a |
| 223(a)(7) Refinance of Existing FHA-Insured Hospital | 50 | n/a | 55 | n/a |
| 223(f) Refinance or Purchase of Existing Non-FHA-Insured Hospital | 100 | n/a | 65 | n/a |
| 241(a) Supplemental Loans for Hospitals | 65 | n/a | 65 | n/a |

* MIP premiums are separate and apart from (and in addition to) the application fees.

**Aaron Santa Anna,**

*Associate General Counsel for Legislation and Regulations.*

[FR Doc. 2022–17306 Filed 8–11–22; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–HQ–NWRS–2022–0087; FF09R23000–223–FXRS126109WH000; OMB Control Number 1018–New]**

### Agency Information Collection Activities; U.S. Fish and Wildlife Service Bison Donations Request Form

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing a new information collection in use without Office of Management and Budget (OMB) approval.

**DATES:** Interested persons are invited to submit comments on or before October 11, 2022.

**ADDRESSES:** Send your comments on the information collection request (ICR) by one of the following methods (reference Office of Management and Budget (OMB) Control Number 1018—Bison in the subject line of your comment):

- *Internet (preferred): https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–NWRS–2022–0087.
- *Email: Info_Coll@fws.gov.*
- *U.S. Mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803.

**FOR FURTHER INFORMATION CONTACT:** To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of

information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

*Abstract:* The Service's ''*Bison Donations Transfer Protocol*'' (protocol) describes the process for the donation of the available surplus bison from the Service to eligible organizations, Tribes, or intertribal organizations as outlined in regulations at 50 CFR 30.1, as well as in Service Manual chapters 701 FW 5 and 701 FW 8. Surplus bison are offspring that exceed the ecological carrying capacity of the Service bison metapopulation. The primary purposes of donating these bison are to support conservation of the species as native North American wildlife and to assist in the restoration of bison herds on conservation partner lands, with special emphasis on restoring conservation herds to Tribal lands. Our authorities governing the Protocol include:

- National Wildlife Refuge System Administration Act (16 U.S.C. 668dd and 668ee; as amended);
- American Indian Religious Freedom Act (Pub. L. 95–341);
- Indian Self-Determination and Education Assistance Act (Pub. L. 93–638, as amended);
- Surplus Range Animals (50 CFR 30.1);
- Disposition of Surplus Range Animals (50 CFR 30.2);
- Native American Policy of the U.S. Fish and Wildlife Service (510 FW 1);
- Fenced Animal Management policy (701 FW 8); and
- Collections, Donations, and Disposals policy (701 FW 5).

In 2020, the U.S. Department of the Interior (DOI) Bison Working Group published the *Department of the Interior Bison Conservation Initiative 2020* (2020 initiative), recognizing bison as a wildlife species in need of conservation. Consistent with this initiative, Service policy identifies the ecological and cultural values of bison as nationally and/or historically significant animals.

The *Bison Conservation Genetics Workshop: Report and Recommendations* (2010 report) identifies DOI bison herds as a valuable source with which to start new conservation herds proposed by other Federal, State/provincial, or Tribal governments. The *DOI Bison Report: Looking Forward* (2014 report) acknowledges the challenges to achieving bison restoration on DOI lands and emphasizes the importance of partnerships for achieving bison conservation and ecological restoration. Both the 2010 and 2014 reports also identify the potential for bison herds maintained by Indian Tribes to contribute to species conservation, and the Service recognizes that such bison may also support Tribal cultural rights and practices.

Periodic reduction in the size of Service bison herds is required to remain within the ecological carrying capacity of Service lands. Live bison capture and removal assists in the restoration of bison to Tribal lands, supports the efforts of States and other conservation organizations, and ensures that the ecological needs of other species are met on limited-size refuges. To support maximum conservation of genetic diversity within and across Service herds, selection of young bison available for donation is coordinated across all refuges. From the surplus bison made available for donation from refuges, requests will be prioritized for bison restoration and conservation purposes.

We propose Form 3–2555, ''Bison Donations Request Form,'' to request surplus bison. Respondents will generally be from Tribal governments and intertribal organizations, although we do expect to receive a small number of requests from States and private sector organizations (nonprofit and educational/research organizations). The request form provides details governing the protocol and collects the following information:

- Name of requesting Tribe, intertribal organization, State, or private sector organization.
- Documentation that the proposed project or program meets the definition of a conservation herd.
- Demonstration of the educational contribution of the donation to increasing public knowledge and appreciation of the wildlife values of bison (for educational and research organizations only).
- Total number (or percentage of total donation request) of bison and purpose of request:

—Establish a free-ranging conservation herd;
—Supplement or augment a free-ranging conservation herd;
—Establish a self-sustaining herd for non-conservation purposes;
—Supplement or augment a self-sustaining herd for non-conservation purposes;
—Public display, educational purposes and/or research;
—Tribal spiritual or cultural purposes; or
—A description if ''Other'' purpose.

- Signature of requesting Tribe, intertribal organization, State, or private sector organization official.

In addition to completion of Form 3–2555, recipients of donated bison must inform the Service of the destination State for donated bison no fewer than 30 days prior to a scheduled bison capture operation, to allow the Service time to meet interstate transport regulatory testing requirements. Recipients of donated bison must also inform the Service of the destination physical address for donated bison no fewer than 10 days prior to scheduled bison loadout, to facilitate timely completion of required interstate veterinary permit applications and veterinary inspection certificates.

The public may request a copy of the proposed Form 3–2555 by sending a request to the Service Information Collection Clearance Officer (see **ADDRESSES**, above).

*Title of Collection:* U.S. Fish and Wildlife Service Bison Donations Request Form.

*OMB Control Number:* 1018–New.

*Form Number:* 3–2555.

*Type of Review:* Existing collection in use without an OMB control number.

*Respondents/Affected Public:* Private sector organizations and State/local/Tribal governments.

*Respondent's Obligation:* Voluntary.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour Burden Cost:* There is no cost associated with the Protocol.

| Requirement | Average number of annual respondents | Average number of responses each | Average number of annual responses * | Average completion time per response (hour) | Estimated annual burden hours * |
|---|---|---|---|---|---|
| *Submission of Form 3–2555:* | | | | | |
| Private Sector | 2 | 1 | 2 | 1 | 2 |
| Government | 18 | 1 | 18 | 1 | 18 |
| *Required Notifications:* | | | | | |
| Private Sector | 2 | 2 | 4 | .5 | 2 |
| Government | 18 | 2 | 36 | .5 | 18 |
| *Totals* | *40* | | *60* | | *40* |

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Madonna Baucum,**

*Information Collection Clearance Officer, U.S. Fish and Wildlife Service.*

[FR Doc. 2022–17336 Filed 8–11–22; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R4–ES–2022–N042; FXES11140400000–223–FF04E00000]**

### Endangered Species; Recovery Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit applications; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received applications for permits, permit renewals, and/or permit amendments to conduct activities intended to enhance the propagation or survival of endangered species under the Endangered Species Act of 1973, as amended. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

**DATES:** We must receive written data or comments on the applications by September 12, 2022.

**ADDRESSES:**

*Reviewing Documents:* Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Submit a request for a copy of such documents to Karen Marlowe (see **FOR FURTHER INFORMATION CONTACT**).

*Submitting Comments:* If you wish to comment, you may submit comments by one of the following methods:

- *U.S. Mail:* U.S. Fish and Wildlife Service Regional Office, Ecological Services, 1875 Century Boulevard, Atlanta, GA 30345 (Attn: Karen Marlowe, Permit Coordinator).
- *Email: permitsR4ES@fws.gov*. Please include your name and return address in your email message. If you do not receive a confirmation from the U.S. Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed in **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Karen Marlowe, Permit Coordinator, 404–679–7097 (telephone), *karen_marlowe@fws.gov* (email), or 404–679–7081 (fax). 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 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. With some exceptions, the ESA prohibits take of listed species unless a Federal permit is issued that authorizes such take. The ESA's definition of ''take'' includes hunting, shooting, harming, wounding, or killing, and also such activities as pursuing, harassing, trapping, capturing, or collecting.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to take endangered or threatened species while engaging in activities that are conducted for scientific purposes that promote recovery of species or for enhancement of propagation or survival of species. These activities often include the capture and collection of species, which would result in prohibited take if a permit were not issued. Our regulations implementing section 10(a)(1)(A) 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

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing these permits. Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

| Permit application No. | Applicant | Species | Location | Activity | Type of take | Permit action |
|---|---|---|---|---|---|---|
| TE 56588D–2 .. | Martin J. Melville, Marietta, GA. | Palezone shiner (*Notropis albizonatus*) and rush darter (*Etheostoma phytophilum*). | Alabama ..... | Presence/ probable absence surveys. | Capture, handle, identify, and release. | Amendment. |
| TE 91755B–1 ... | Nathan Click, Kentucky Transportation Cabinet, Frankfort, KY. | Clubshell (*Pleurobema clava*), cracking pearlymussel (*Hemistena lata*), Cumberland bean (*Villosa trabilis*), Cumberland elktoe (*Alasmidonta atropurpurea*), Cumberlandian combshell (*Epioblasma brevidens*), dromedary pearlymussel (*Dromus dromas*), fanshell (*Cyprogenia stegaria*), fat pocketbook (*Potamilus capax*), fluted kidneyshell (*Ptychobranchus subtentus*), littlewing pearlymussel (*Pegias fabula*), northern riffleshell (*E. rangiana*), orangefoot pimpleback (*Plethobasus cooperianus*), oyster mussel (*E. capsaeformis*), pink mucket (*Lampsilis abrupta*), purple cat's paw (*E. obliquata obliquata*), rabbitsfoot (*Quadrula cylindrica cylindrica*), rayed bean (*V. fabalis*), ring pink (*Obovaria retusa*), rough pigtoe (*Pleurobema plenum*), scaleshell (*Leptodea leptodon*), sheepnose (*Plethobasus cyphyus*), slabside pearlymussel (*Pleuronaia dolabelloides*), snuffbox (*E. triquetra*), spectaclecase (*Cumberlandia monodonta*), tan riffleshell (*E. florentina walkeri*), white wartyback (*Plethobasus cicatricosus*), and winged mapleleaf (*Q. fragosa*). | Kentucky ..... | Presence/ probable absence surveys. | Capture, handle, identify, mark, and release. | Renewal. |
| TE 008077–3 ... | John Palis, Jonesboro, IL. | Frosted flatwoods salamander (*Ambystoma cingulatum*) and reticulated flatwoods salamander (*A. bishopi*). | Florida, Georgia, and South Carolina. | Presence/ probable absence surveys. | Capture, mark, release, and collect voucher specimens. | Renewal. |
| TE 98596B–3 ... | Sarah Veselka, BioSurvey Group, LLC, Morgantown, WV. | Mussels: Clubshell (*Pleurobema clava*), cracking pearlymussel (*Hemistena lata*), fanshell (*Cyprogenia stegaria*), James spinymussel (*Parvaspina collina*), northern riffleshell (*Epioblasma rangiana*), orangefoot pimpleback (*Plethobasus cooperianus*), pink mucket (*Lampsilis abrupta*), purple cat's paw (*E. obliquata obliquata*), rabbitsfoot (*Quadrula cylindrica cylindrica*), rayed bean (*Villosa fabalis*), ring pink (*Obovaria retusa*), rough pigtoe (*Pleurobema plenum*), sheepnose (*Plethobasus cyphyus*), snuffbox (*E. triquetra*), spectaclecase (*Cumberlandia monodonta*), and white catspaw (*E. obliquata perobliqua*); Crayfish: Big Sandy crayfish (*Cambarus callainus*) and Guyandotte River crayfish (*C. veteranus*). | Mussels: Alabama, Arkansas, Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin; Crayfish: Kentucky, Virginia, and West Virginia. | Presence/ probable absence surveys and mark-recapture projects. | Mussels: Remove from the substrate for identification, handle, identify, tag, and release; Crayfish: Capture via seining, handle, identify, and release. | Renewal and amendment. |
| TE 33465A–4 ... | U.S. Forest Service, Montgomery, AL. | Red-cockaded woodpecker (*Picoides borealis*). | Alabama, Florida, Georgia, Mississippi, and South Carolina. | Population management and monitoring. | Capture; band; drill nest cavities; install inserts, restrictors, and snake and squirrel excluders; monitor nest cavities and artificial nest cavities; recapture; and translocate. | Renewal. |
| PER 0047056 .. | Margaret Lamont, U.S. Geological Survey, Gainesville, FL. | Green sea turtle (*Chelonia mydas*), Kemp's ridley sea turtle (*Lepidochelys kempii*), and loggerhead sea turtle (*Caretta caretta*). | Alabama ..... | Population and distribution monitoring, mark-recapture studies, genetic and diet research. | PIT and flipper tag, weigh, measure, and collect scute, tissue, and blood samples. | New. |

| Permit application No. | Applicant | Species | Location | Activity | Type of take | Permit action |
|---|---|---|---|---|---|---|
| TE 079883–5 ... | Arkansas Department of Transportation, Little Rock, AR. | Mussels: Arkansas fatmucket (*Lampsilis powellii*), Curtis pearlymussel (*Epioblasma florentina curtisii*), fanshell (*Cyprogenia stegaria*), fat pocketbook (*Potamilus capax*), Neosho mucket (*L. rafinesqueana*), Ouachita rock pocketbook (*Arcidens wheeleri*), pink mucket (*L. abrupta*), rabbitsfoot (*Quadrula cylindrica cylindrica*), scaleshell mussel (*Leptodea leptodon*), snuffbox mussel (*E. triquetra*), speckled pocketbook (*Lampsilis streckeri*), spectaclecase (*Cumberlandia monodonta*), turgid blossom (*E. turgidula*), and winged mapleleaf (*Q. fragosa*); Insects: American burying beetle (*Nicrophorus americanus*). | Arkansas ..... | Presence/probable absence surveys. | Mussels: Remove from substrate, handle, identify, swab, release, and salvage relic shells; Insects: Live trap and release. | Renewal and amendment. |
| TE 35594A–5 ... | Alabama Power Company, Birmingham, AL. | Red-cockaded woodpecker (*Picoides borealis*); flattened musk turtle (*Sternotherus depressus*); gopher tortoise (*Gopherus polyphemus*); black pinesnake (*Pituophis melanoleucus lodingi*); Black Warrior waterdog (*Necturus alabamensis*); Fishes: Trispot darter (*Etheostoma trisella*) and rush darter (*E. phytophilum*); Mussels: Finelined pocketbook (*Hamiota altilis*), Georgia pigtoe (*Pleurobema hanleyianum*), southern clubshell (*P. decisum*), and southern pigtoe (*P. georgianum*); Snails: Cylindrical lioplax (*Lioplax cyclostomaformis*), interrupted rocksnail (*Leptoxis foremani*), painted rocksnail (*L. taeniata*), rough hornsnail (*Pleurocera foremani*), and tulotoma (*Tulotoma magnifica*). | Alabama ..... | Presence/probable absence surveys and population monitoring. | Red-cockaded woodpecker: Monitor nest cavities; flattened musk turtle: Capture, handle, radio tag, and release; gopher tortoise and black pinesnake: Scope burrows; Black Warrior waterdog: Capture, handle, collect tissue samples, and release; Fishes: Capture, handle, and release; Mussels and Snails: Remove from substrate, handle, tag, release, and collect relic shells. | Renewal and amendment. |
| TE 02167C–1 .. | James Gore, Columbia, SC. | Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), Ozark big-eared bat (*Corynorhinus* (=*Plecotus*) *townsendii ingens*), and Virginia big-eared bat (*Corynorhinus* (=*Plecotus*) *townsendii virginianus*). | Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming. | Presence/probable absence surveys, population monitoring, and stable isotope analyses. | Enter hibernacula and maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio tag, and collect hair samples. | Renewal and amendment. |
| TE 065972–3 ... | U.S. Forest Service, Russellville, AR. | Mammals: Gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), northern long-eared bat (*Myotis septentrionalis*), and Ozark big-eared bat (*Corynorhinus* (=*Plecotus*) *townsendii ingens*); Insects: American burying beetle (*Nicrophorus americanus*). | Ozark-St. Francis National Forests, Arkansas. | Presence/probable absence surveys. | Mammals: Enter hibernacula and maternity roost caves, capture with mist nets or harp traps, handle, identify, band, and radio tag; Insects: Live-trap and release. | Renewal and amendment. |

**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.*).

**John Tirpak,**

*Deputy Assistant Regional Director, Ecological Services Southeast Region.*

[FR Doc. 2022–17340 Filed 8–11–22; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLCAD06000.51010000. ER0000.LVRWB20B6340.20X5017AP. CACA56753; MO#450059376]**

### Notice of Availability of the Whitewater River Groundwater Replenishment Facility Project Final Environmental Impact Statement, Riverside County, CA

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a final environmental impact statement (EIS) for the Whitewater River Groundwater Replenishment Facility Project (Project), and by this notice is announcing the availability of the final EIS for a 30-day review period.

**DATES:** The BLM will issue a final decision on the proposal a minimum of 30 days after the date that the Environmental Protection Agency (EPA) publishes its notice of availability (NOA) in the **Federal Register**. The EPA usually publishes its NOAs on Fridays.

**ADDRESSES:** You may review the final EIS at *https://go.usa.gov/x6KsM.* Copies of the Whitewater River Groundwater Replenishment Facility final EIS are available at the Palm Springs South Coast Field Office at 1201 Bird Center Drive, Palm Springs, CA 92262.

**FOR FURTHER INFORMATION CONTACT:** Brandon G. Anderson, BLM Project Manager, telephone: (760) 422–9120; email: *bganderson@blm.gov;* address Bureau of Land Management, 1201 Bird Center Drive, Palm Springs, CA 92262.

Persons who use telecommunication devices for the deaf may call the Federal Relay Service (FRS) at 1–800–877–8339 to contact the BLM during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Coachella Valley Water District (CVWD) seeks a right-of-way (ROW) grant from the BLM for its existing groundwater replenishment facility in North Palm Springs that is partially located on public lands managed by the BLM. The existing facility consists of water control berms, intake structures, conveyance structures, and 19 infiltration ponds over approximately 690 acres of BLM-managed public lands. The facility also includes 1,480 acres of lands held by CVWD. No new construction and no change in operations are proposed. The change in volume represents CVWD's request that the BLM analyze environmental impacts for the full annual capacity of the facility, instead of the anticipated water allotments, as was done for the previous grant. The change in acreage represents CVWD's request to authorize the use of public lands for water control berms upstream of its intake structure.

The Proposed Action (Alternative 1) is the BLM Preferred Alternative and would authorize the facility in its existing configuration, which has the ability to infiltrate up to 511,000 acre-feet per year, representing the maximum physical capacity of the facility. In addition to the Proposed Action, the final EIS considers a no action alternative and three action alternatives. Alternative 2 (Partial Implementation) would authorize only the area of public lands on which the water control structures upstream of the intake are located. Alternative 3 (Reduced Volume) would authorize the same facility as described under Alternative 1 but would limit annual infiltration volume to 220,000 acre-feet per year. Alternative 4 (Land Disposal) would authorize the sale or exchange of the public lands within the project footprint and would authorize the facility operation on public lands for a period of 10 years, sufficient to implement the disposal. Alternative 5 (No Action) would not authorize those portions of the facility that are located on public lands. Those portions would be removed, and the public lands rehabilitated.

The BLM is the lead agency under NEPA and will make Federal decisions regarding the ROW for the Project. The U.S. Fish and Wildlife Service is a Cooperating Agency and will issue a Biological Opinion for the project. The U.S. Bureau of Indian Affairs, Agua Caliente Band of Cahuilla Indians, Desert Water Agency, and Metropolitan Water District of Southern California are Cooperating Agencies in this environmental review, but do not have direct permitting roles in the project.

On June 11, 2021, the BLM published a draft EIS for a 45-day review period. The BLM received nine comments during the public comment process. Issues raised included: concerns for ground water quality and quantity, impacts to listed species, and feasibility of mitigation measures. These issues are addressed in the response to comments and final EIS analysis.

The BLM utilized and coordinated the NEPA process to help fulfill the public involvement process under the National Historic Preservation Act (54 U.S.C. 306108), as provided in 36 CFR 800.2(d)(3).

(Authority: 40 CFR 1506.6; 40 CFR 1506.10)

**Erica E. St. Michel,**

*BLM California Deputy State Director, Communications.*

[FR Doc. 2022–17312 Filed 8–11–22; 8:45 am]

**BILLING CODE 4310–40–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLORM00000–L223L1109.AF00000–223.HAG 22–0021]**

### Notice of Public Meetings, Western Oregon Resource Advisory Council

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meetings.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Western Oregon Resource Advisory Council (RAC) will meet as follows.

**DATES:** The Western Oregon RAC will meet on September 22, 2022; and October 11 and 13, 2022. Each meeting will begin at 9 a.m. The September 22 and October 11 meetings will adjourn at approximately 4 p.m. The October 13 meeting will adjourn at approximately 3 p.m.

**ADDRESSES:** The meetings will be virtual meetings held over the Zoom platform. Please register at least one day in advance of the meetings. Register for the September meeting here: *https://blm.zoomgov.com/webinar/register/WN_fXyuZv68Slalt_PT-pEN9A.*

Register for the October meetings here: *https://blm.zoomgov.com/webinar/register/WN_iN5MZgFxRaa5h7LKvx-7LQ.*

**FOR FURTHER INFORMATION CONTACT:** Kyle Sullivan, Public Affairs Specialist, Medford District, 3040 Biddle Road, Medford, OR 97504; phone: (541) 618–2340; email: *ksullivan@blm.gov*.

**SUPPLEMENTARY INFORMATION:** The 15-member Western Oregon RAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues across public lands in Western Oregon, including the Coos Bay, Medford, Northwest Oregon, and Roseburg Districts and part of the Lakeview District. Topics of discussion for these meetings include Secure Rural Schools Title II funding, recreation, recreation fee proposals, fire management, land use planning, invasive species management, timber management, travel management, wilderness, cultural resource management, and other issues as appropriate. The September meeting will provide an administrative orientation for new RAC members and discuss the Secure Rural School Title II funding process. The October meetings will focus on the review and recommendation of projects proposed for funding under the Title II of the Secure Rural Schools legislation.

The meetings are open to the public, and public comment periods will be held at 3 p.m. on September 22, at 3:30 p.m. on October 11, and at 2 p.m. on October 13. Depending on the number of persons wishing to comment and the time available, time allotted for individual oral comments may be limited. The public may present written comments to the Western Oregon RAC. Comments can also be emailed to *ksullivan@blm.gov.*

Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the (see **FOR FURTHER INFORMATION CONTACT**) section of this notice at least 7 business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Individuals in the United States who are deaf, blind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Detailed minutes for the RAC meetings will be maintained in the Medford District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting. Previous minutes, membership information, and upcoming agendas are available at: *https://www.blm.gov/get-involved/resource-advisory-council/near-you/oregon-washington.*

(Authority: 43 CFR 1784.4–2)

**Elizabeth R. Burghard,**

*Designated Federal Official.*

[FR Doc. 2022–17391 Filed 8–11–22; 8:45 am]

**BILLING CODE 4310–33–P**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLWO260000.L10600000PC0000.22X.LXSIADVSBD00.241A]**

### Call for Nominations for the National Wild Horse and Burro Advisory Board

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of call for nominations.

**SUMMARY:** The purpose of this notice is to solicit public nominations for three positions on the National Wild Horse and Burro Advisory Board (Board) that will become vacant on October 9, 2022. The Board provides advice concerning the management, protection, and control of wild free-roaming horses and burros on public lands administered by the Department of the Interior, through the Bureau of Land Management (BLM), and the Department of Agriculture, through the U.S. Forest Service.

**DATES:** Nominations must be post marked or submitted to the following addresses no later than September 12, 2022.

**ADDRESSES:** All mail sent via the U.S. Postal Service should be addressed as follows:

Wild Horses and Burro Division, U.S. Department of the Interior, Bureau of Land Management, Attn: Dorothea Boothe, HQ–260, 9828 31st Avenue; Phoenix, AZ 85051.

All packages that are sent via FedEx or UPS should be addressed as follows:

U.S. Department of the Interior, Bureau of Land Management, Wild Horse and Burro Division, Attn: Dorothea Boothe, 9828 31st Avenue, Phoenix, AZ 85051. Please consider emailing PDF documents to Ms. Boothe at *dboothe@blm.gov.*

**FOR FURTHER INFORMATION CONTACT:** Dorothea Boothe, Wild Horse and Burro Program Coordinator, telephone: (602) 906–5543, email: *dboothe@blm.gov.* Persons 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:** Members of the Board serve without compensation; however, while away from their homes or regular places of business, Board and subcommittee members engaged in Board or subcommittee business, approved by the Designated Federal Officer (DFO), may be allowed travel expenses, including per diem in lieu of subsistence under 5 U.S.C. 5703, in the same manner as persons employed intermittently in government service. Nominations for a term of 3 years are needed to represent the following categories of interest:

- Humane Advocacy;
- Livestock Management; and
- Wildlife Management.

The Board will meet one to four times annually. The DFO may call additional meetings in connection with special needs for advice. Individuals may nominate themselves or others. Any individual or organization may nominate one or more persons to serve on the Board.

Nominations should include a resume providing adequate description of the nominee's qualifications, including information that would enable the Departments of the Interior and Agriculture to make an informed decision regarding meeting the membership requirements of the Board and permit the Departments to contact a potential member. Nominations are to be sent to the address listed in the **ADDRESSES** section.

As appropriate, certain Board members may be appointed as special Government employees (SGEs). Please be aware that applicants selected to serve as SGEs will be required, prior to appointment, to file a Confidential Financial Disclosure Report in order to avoid involvement in real or apparent conflicts of interest. You may find a copy of the Confidential Financial Disclosure Report at the following

website: *https://www.doi.gov/ethics/oge-form-450.* Additionally, after appointment, members appointed as SGEs will be required to meet applicable financial disclosure and ethics training requirements. Please contact (202) 202–208–7960 or *DOI_Ethics@sol.doi.gov* with any questions about the ethics requirements for members appointed as SGEs.

Membership Selection: Individuals shall qualify to serve on the Board because of their education, training, or experience that enables them to give informed and objective advice regarding the interest they represent. They should demonstrate experience or knowledge of the area of their expertise and a commitment to collaborate in seeking solutions to resource management issues. The Board is structured to provide fair membership and balance, both geographic and interest specific, in terms of the functions to be performed and points of view to be represented. Members are selected with the objective of providing representative counsel and advice about public land and resource planning. No person is to be denied an opportunity to serve because of race, age, sex, sexual orientation, religion, or national origin.

Pursuant to Section 7 of the Wild Free-Roaming Horses and Burros Act, members of the Board cannot be employed by the State or Federal Government.

(Authority: 43 CFR 1784.4–1)

**David Jenkins,**

*Assistant Director, Resources and Planning.*

[FR Doc. 2022–17383 Filed 8–11–22; 8:45 am]

**BILLING CODE 4310–84–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 337–TA–1191]**

## Certain Audio Players and Controllers, Components Thereof, and Products Containing the Same; Notice of a Commission Determination To Institute a Modification Proceeding

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has determined to institute a modification proceeding in the above-captioned investigation.

**FOR FURTHER INFORMATION CONTACT:** Megan M. Valentine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** On February 11, 2020, the Commission instituted this investigation based on a complaint filed by Sonos, Inc. (''Sonos'') of Santa Barbara, California. 85 FR 7783 (Feb. 11, 2020). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) (''section 337''), based on the importation into the United States, the sale for importation, or the sale within the United States after importation of certain audio players and controllers, components thereof, and products containing the same by reason of infringement of certain claims of U.S. Patent Nos. 9,195,258 (''the '258 patent''); 10,209,953 (''the '953 patent''); 8,588,949 (''the '949 patent''); 9,219,959 (''the '959 patent''); and 10,439,896 (''the '896 patent''). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation named as respondents Google LLC (''Google'') and Alphabet Inc. (''Alphabet''), both of Mountain View, California. *Id.* The Office of Unfair Import Investigations (''OUII'') was also named as a party. *Id.*

On September 21, 2020, the Commission terminated the investigation as to Alphabet based on withdrawal of the allegations in the complaint directed to Alphabet. Order No. 18 (Sept. 1, 2020), *unreviewed by* Comm'n Notice (Sept. 21, 2020). On November 24, 2020, the Commission determined that the importation requirement has been satisfied. Order No. 27 (Oct. 27, 2020), *unreviewed by* Comm'n Notice (Nov. 24, 2020). On February 2, 2021, the Commission determined that the technical prong of the domestic industry requirement has been satisfied as to the '949 patent. Order No. 32 (Jan. 4, 2021), *unreviewed by* Comm'n Notice (Feb. 2, 2021). On February 16, 2021, the Commission determined that the economic prong of the domestic industry requirement has been satisfied as to all asserted patents. Order No. 35 (Jan. 14, 2021), *reviewed and aff'd by* Comm'n Notice (Feb. 16, 2021). On March 12, 2021, the Commission partially terminated the investigation based on withdrawal of the allegations in the complaint as to certain asserted claims. Order No. 58 (Feb. 23, 2021), *unreviewed by* Comm'n Notice (Mar. 12, 2021).

On August 13, 2021, the presiding Chief Administrative Law Judge (''CALJ'') issued an initial determination (''ID'') finding a violation of section 337 with respect to the following claims of the asserted patents: claims 17, 21, 24, and 26 of the '258 patent; claims 7, 14, and 22–24 of the '953 patent; claim 10 of the '959 patent; claims 1, 2, and 5 of the '949 patent; and claims 1, 5, 6, and 12 of the '896 patent.

On November 19, 2021, the Commission determined to review the ID in part with respect to the ID's analysis of whether the products accused of infringing the '258 and '953 patents are articles that infringe at the time of importation. 86 FR 67492 (Nov. 26, 2021). The Commission also determined to correct two typographical errors on pages 24 and 84 of the ID. *Id.* The Commission did not request briefing on any issue under review. *Id.* The Commission's notice also requested written submissions on remedy, the public interest, and bonding. *Id.*

On January 6, 2022, the Commission terminated the investigation with a finding of a violation of section 337 with respect to claims 17, 21, 24, and 26 of the '258 patent; claims 7, 14, and 22–24 of the '953 patent; claim 10 of the '959 patent; claims 1, 2, and 5 of the '949 patent; and claims 1, 5, 6, and 12 of the '896 patent. 87 FR 1784–85 (Jan. 12, 2022). The Commission issued a limited exclusion order (''LEO'') and a cease and desist order (''CDO'') against Google. *Id.*

On January 27, 2022, Sonos filed a petition with the U.S. Court of Appeals for the Federal Circuit seeking review of the Commission's finding that one or more redesign products that Google submitted for adjudication with respect to each asserted patent are non-infringing. *Sonos, Inc.* v. *Int'l Trade Comm'n,* No. 22–1421. On March 22, 2022, Google filed a petition for review of the Commission finding of violation. *Google LLC* v. *Int'l Trade Comm'n,* No. 22–1573. These appeals have been consolidated.

On July 14, 2022, Google filed a petition for modification of the LEO and CDO, pursuant to Commission Rule 210.76(a), 19 CFR 210.76(a). Google alleges that its Pixel smartphones, tablets, laptops, and other ''controllers'' installed with an allegedly new Device Utility app do not infringe any of claims

1, 5, 6, and 12 of the '896 patent. On July 25, 2022, Sonos filed an opposition to Google's modification petition.

The Commission has determined that Google's petition complies with the requirements for institution of a modification proceeding pursuant to Commission Rule 210.76. Accordingly, the Commission has determined to institute a modification proceeding and has delegated the proceeding to the CALJ. The presiding CALJ shall submit a recommended determination within six (6) months after publication of notice of this Order in the **Federal Register**. Sonos, Google, and OUII are named as parties to the modification proceeding.

The Commission vote for this determination took place on August 8, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: August 9, 2022.

**Katherine Hiner,**

*Acting Secretary to the Commission.*

[FR Doc. 2022–17398 Filed 8–11–22; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 731–TA–825–826 (Fourth Review)]**

### Certain Polyester Staple Fiber From South Korea and Taiwan

#### Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the antidumping duty orders on certain polyester staple fiber from South Korea and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

#### Background

The Commission instituted these reviews on January 3, 2022 (87 FR 119) and determined on April 8, 2022, that it would conduct expedited reviews (87 FR 38780, June 29, 2022).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on August 8, 2022. The views of the Commission are contained in USITC Publication 5341 (August 2022), entitled *Certain Polyester Staple Fiber from South Korea and Taiwan: Investigation Nos. 731–TA–825–826 (Fourth Review).*

By order of the Commission.

Issued: August 8, 2022.

**Katherine Hiner,**

*Acting Secretary to the Commission.*

[FR Doc. 2022–17313 Filed 8–11–22; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigation Nos. 701–TA–540–543 and 731–TA–1283–1287 and 1290 (Review)]**

### Cold-Rolled Steel Flat Products From Brazil, China, India, Japan, South Korea, and the United Kingdom

#### Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing duty orders on cold-rolled steel flat products (''cold-rolled steel'') from China, India, and South Korea and the antidumping duty orders on cold-rolled steel from China, India, Japan, South Korea, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Commission further determines that revocation of the countervailing and antidumping duty orders on cold-rolled steel from Brazil would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

#### Background

The Commission instituted these reviews on June 1, 2021 (86 FR 29286) and determined on September 7, 2021 that it would conduct full reviews (86 FR 52180, September 20, 2021). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on December 13, 2021 (86 FR 70864). The Commission conducted its hearing on May 24, 2022. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on August 9, 2022. The views of the Commission are contained in USITC Publication 5339 (August 2022), entitled *Cold-Rolled Steel Flat Products from Brazil, China, India, Japan, South Korea, and the United Kingdom: Investigation Nos. 701–TA–540–543 and 731–TA–1283–1287 and 1290 (Review).*

By order of the Commission.

Issued: August 9, 2022.

**Katherine Hiner,**

*Acting Secretary to the Commission.*

[FR Doc. 2022–17399 Filed 8–11–22; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Pillows and Seat Cushions, Components Thereof, and Packaging Thereof, DN 3633;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Katherine M. Hiner, Acting Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioners Rhonda K. Schmidtlein and Randolph J. Stayin determine that revocation of the countervailing duty orders on CRS from Brazil, China, India, and South Korea and the antidumping duty orders on CRS from Brazil, China, India, Japan, South Korea, and the United Kingdom would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Purple Innovation, LLC on August 5, 2022. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of pillows and seat cushions, components thereof, and packaging thereof. The complainant names as respondents: Bedmate-U Co., Ltd. of Korea; Chuang Fan Handicraft Co., Ltd of China; Dongguan Bounce Technology Co., Ltd. of China; Dongguan Jingrui Silicon Technology Co., Ltd. of China; Foshan Dirani Design Furniture Co., Ltd. of China; Global Ocean Trading Co., Ltd. of China; Guang An Shi Lin Chen Zai Sheng Wuzi Co. Ltd. of China; Guang Zhou Wen Jie Shang Mao Youxian Gongsi Co., Ltd. of China; Guangzhou Episilon Import and Export Co., Ltd. of China; Guangzhoushi Baixiangguo Keji Youxian Gongsi Co., Ltd. of China; Haircrafters LLC of Chattanooga, TN; Hangzhou Lishang Import & Export Co., Ltd. of China; Hangzhou Lydia Sports Goods Co., Ltd. of China; Hebei Zeyong Technology Co., Ltd. of China; Henson Holdings, LLC d.b.a. SelectSoma of Lafayette. LA; Hetaibao of China; Hubei Sheng Bingyi Dianzi Keji Youxian Gongsi Co. Ltd. of China; Kaifeng Shi Long Ting Qu Chen Yi Shangmao Youxian Gongsi Co., Ltd. of China; Lankao Junchang Electronic Commerce Co., Ltd. of China; Lei Lei Wang of China; Liu Lin Xian Xu Bin Dian Zi Chan Pin Dian of China; Nanchang Shirong Bao Er Guanggao Youxian Gongsi Co., Ltd. of China; Ningbo Bolian Import & Export Co., Ltd. of China; Ningbo Minzhou Import & Export Co., Ltd. of China; Ruian Ketai Commodity Co. Ltd. of China; Ruian Xiu Yuan Guoji MaoYi Youxian Gongsi Co., Ltd. of China; Shandong Jiu Hui Xinxi Keji Youxian Gongsi Co., Ltd. of China; Shanxi Chao Ma Xun Keji Youxian Gongsi Co., Ltd. of China; Shenzhen Baibaikang Technology Co., Ltd. of China; Shenzhen Leadfar Industry Co., Ltd. of China; Shenzhen Shi Chi Yang Wang Luo Ji Shu Youxian Gongsi Co., Ltd. of China; Shenzhen Shi Mai Rui Ke Dianzi Shangwu Co. Ltd. of China; Shenzhen Shi Xin Shangpin Dianzi Shangwu Youxian Gongsi Co., Ltd. of China; Shenzhen Shi Yan Huang Chu Hai Keji Youxian Gongsi Co., Ltd. of China; Shenzhen Shi Yuxiang Meirong Yongju Youxian Gongsi Co. Ltd. of China; Shenzhen Tianrun Material Co., Ltd. of China; Wuhan Chenkuxuan Technology Co., Ltd. of China; Xiao Dawei of China; Xiao Xiao Pi Fa Shang Mao You Xian Ze Ren Gongsi Co. of China; YaRu Wang of China; Yiwu Youru E-commerce Co., Ltd. of China; Zhejiang Xinhui Import & Export Co., Ltd. of China; and Zhou Meng Bo of China. The complainant requests that the Commission issue a limited exclusion order and cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions on the public interest must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation. Any written submissions on other issues must also be filed by no later than the close of business, eight calendar days after publication of this notice in the **Federal Register**. Complainant may file replies to any written submissions no later than three calendar days after the date on which any initial submissions were due. No other submissions will be accepted, unless requested by the Commission. Any submissions and replies filed in response to this Notice are limited to five (5) pages in length, inclusive of attachments.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. Submissions should refer to the docket number (''Docket No. 3633'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov.*) No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice. Persons with questions regarding filing should contact the Secretary at *EDIS3Help@usitc.gov.*

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

purposes of this Investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: August 8, 2022.

**Katherine Hiner,**

*Acting Secretary to the Commission.*

[FR Doc. 2022–17298 Filed 8–11–22; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–1067]**

### Importer of Controlled Substances Application: Cambridge Isotope Laboratories, Inc.

**AGENCY:** Drug Enforcement Administration, Justice.

**ACTION:** Notice of application.

**SUMMARY:** Cambridge Isotope Laboratories has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

**DATES:** Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before September 12, 2022. Such persons may also file a written request for a hearing on the application on or before September 12, 2022.

**ADDRESSES:** The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 1301.34(a), this is notice that on July 18, 2022, Cambridge Isotope Laboratories, 50 Frontage Road, Andover, Massachusetts 01810–5413, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Gamma Hydroxybutyric Acid. | 2010 | I |
| Tetrahydrocannabinols .. | 7370 | I |
| Morphine ..... | 9300 | II |

The company plans to import the listed controlled substances for preparation of analytical standards and formulations. In reference to drug codes 7370 (Tetrahydrocannabinols), the company plans to import a synthetic Tetrahydrocannabinol. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

**Kristi O'Malley,**

*Assistant Administrator.*

[FR Doc. 2022–17364 Filed 8–11–22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

**[Docket No. DEA–1065]**

### Importer of Controlled Substances Application: Galephar Pharmaceutical Research, Inc.

**AGENCY:** Drug Enforcement Administration, Justice.

**ACTION:** Notice of application.

**SUMMARY:** Galephar Pharmaceutical Research, Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to **SUPPLEMENTARY INFORMATION** listed below for further drug information.

**DATES:** Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before September 12, 2022. Such persons may also file a written request for a hearing on the application on or before September 12, 2022.

**ADDRESSES:** The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 1301.34(a), this is notice that on July 28, 2022, Galephar Pharmaceutical Research, Inc., 100 Carr 198 Industrial Park, Juncos, Puerto Rico 00777–3873, applied to be registered as

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

an importer of the following basic class(es) of controlled substance(s):

| Controlled substance | Drug code | Schedule |
|---|---|---|
| Hydromorphone ..... | 9150 | II |

The company plans to import the listed controlled substance in finished dosage form for analytical purpose only. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2).

Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

**Kristi O'Malley,**

*Assistant Administrator.*

[FR Doc. 2022–17361 Filed 8–11–22; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF LABOR

### Agency Information Collection Activities; Formative Data Collections for DOL Research

**ACTION:** Notice of availability; request for comments.

**SUMMARY:** The Department of Labor (DOL) is submitting this Chief Evaluation Office (CEO)-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, 2022.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

*Comments are invited on:* (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

**SUPPLEMENTARY INFORMATION:** The Chief Evaluation Office of DOL seeks approval of this generic clearance to allow DOL to conduct a variety of formative data collections. Under this generic clearance, DOL would engage in a variety of formative data collections with researchers, practitioners, technical assistance providers, service providers and potential participants throughout the field to fulfill the following goals: (1) inform the development of DOL research, (2) maintain a research agenda that is rigorous and relevant, (3) ensure that research products are as current as possible and (4) inform the provision of technical assistance. DOL envisions using a variety of techniques including semi-structured discussions, focus groups, surveys, and telephone or in-person interviews in order to reach these goals. The findings from this data collection can inform and support future and current research but that are not highly systematic or intended to be statistically representative or otherwise generalizable. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 8, 2021 (86 FR 13401).

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–CEO.

*Title of Collection:* Formative Data Collections for DOL Research.

*OMB Control Number:* 1290–0NEW.

*Affected Public:* Individuals or Households.

*Total Estimated Number of Respondents:* 5,500.

*Total Estimated Number of Responses:* 5,500.

*Total Estimated Annual Time Burden:* 5,500 hours.

*Total Estimated Annual Other Costs Burden:* $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

**Nicole Bouchet,**

*Senior PRA Analyst.*

[FR Doc. 2022–17335 Filed 8–11–22; 8:45 am]

**BILLING CODE 4510–26–P**

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### National Endowment for the Humanities

### Meeting of Humanities Panel

**AGENCY:** National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

**ACTION:** Notice of meeting.

**SUMMARY:** The National Endowment for the Humanities (NEH) will hold seven meetings, by videoconference, of the Humanities Panel, a federal advisory committee, during September 2022. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965.

**DATES:** See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the dates specified below.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. Date: September 1, 2022

This video meeting will discuss applications on the topic of U.S. History, for the Digital Projects for the Public: Prototyping Grants program, submitted to the Division of Public Programs.

2. Date: September 1, 2022

This video meeting will discuss applications on the topic of Computational Analysis, for the Digital Humanities Advancement Grants program, submitted to the Office of Digital Humanities.

3. Date: September 6, 2022

This video meeting will discuss applications on the topic of International Topics, for the Digital Projects for the Public: Prototyping Grants program, submitted to the Division of Public Programs.

4. Date: September 7, 2022

This video meeting will discuss applications on the topic of U.S. History, for the Digital Projects for the Public: Prototyping Grants program, submitted to the Division of Public Programs.

5. Date: September 7, 2022

This video meeting will discuss applications on the topic of Public Humanities, for the Digital Humanities Advancement Grants program, submitted to the Office of Digital Humanities.

6. Date: September 8, 2022

This video meeting will discuss applications on the topic of U.S. History, for the Digital Projects for the Public: Prototyping Grants program, submitted to the Division of Public Programs.

7. Date: September 9, 2022

This video meeting will discuss applications on the topic of U.S. History, for the Digital Projects for the Public: Prototyping Grants program, submitted to the Division of Public Programs.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: August 8, 2022.

**Samuel Roth,**

*Attorney-Advisor, National Endowment for the Humanities.*

[FR Doc. 2022–17324 Filed 8–11–22; 8:45 am]

**BILLING CODE 7536–01–P**

## NATIONAL SCIENCE FOUNDATION

### Advisory Committee for Environmental Research and Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

*Name and Committee Code:* Advisory Committee for Environmental Research and Education (9487).

*Date and Time:* September 20, 2022; 11:00 a.m.–5:30 p.m. (EDT), September 21, 2022; 11:00 a.m.–4:00 p.m. (EDT).

*Place:* National Science Foundation, 2415 Eisenhower Avenue, Room E 2020, Alexandria, VA 22314 | Virtual Registration for the virtual meeting can be accessed at: *https://nsf.zoomgov.com/meeting/register/vJIsduCsqzMiHq2ovPnjm8moCR1P39FVnrE*.

*Type of Meeting:* Open.

*Contact Person:* Dr. Arnoldo Valle-Levinson, Staff Associate, Office of Integrative Activities/Office of the Director/National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Email: *avellele@nsf.gov;* Telephone: (703) 292–7946.

*Summary of Minutes:* May be obtained from the AC ERE website: *https://www.nsf.gov/ere/ereweb/minutes.jsp*.

*Purpose of Meeting:* To provide advice, recommendations, and oversight concerning support for environmental research and education.

*Agenda:* Approval of minutes from past meeting. Updates on agency support for environmental research and activities. Discussion with NSF Director and Assistant Directors. Plan for future advisory committee activities. Updated agenda will be available on the AC ERE website: *https://www.nsf.gov/ere/ereweb/minutes.jsp*.

Dated: August 9, 2022.

**Crystal Robinson,**

*Committee Management Officer.*

[FR Doc. 2022–17338 Filed 8–11–22; 8:45 am]

**BILLING CODE 7555–01–P**

## NUCLEAR REGULATORY COMMISSION

**[NRC–2022–0001]**

### Sunshine Act Meetings

**TIME AND DATE:** Weeks of August 15, 22, 29, September 5, 12, 19, 2022. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html*.

**PLACE:** The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov*. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

**STATUS:** Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Wendy.Moore@nrc.gov* or *Betty.Thweatt@nrc.gov*.

**MATTERS TO BE CONSIDERED:**

**Week of August 15, 2022**

There are no meetings scheduled for the week of August 15, 2022.

**Week of August 22, 2022—Tentative**

There are no meetings scheduled for the week of August 22, 2022.

**Week of August 29, 2022—Tentative**

There are no meetings scheduled for the week of August 29, 2022.

**Week of September 5, 2022—Tentative**

There are no meetings scheduled for the week of September 5, 2022.

**Week of September 12, 2022—Tentative**

There are no meetings scheduled for the week of September 12, 2022.

**Week of September 19, 2022—Tentative**

There are no meetings scheduled for the week of September 19, 2022.

**CONTACT PERSON FOR MORE INFORMATION:** For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov*.

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: August 10, 2022.

For the Nuclear Regulatory Commission.

**Monika G. Coflin,**

*Technical Coordinator, Office of the Secretary.*

[FR Doc. 2022–17477 Filed 8–10–22; 4:15 pm]

**BILLING CODE 7590–01–P**

## OFFICE OF PERSONNEL MANAGEMENT

### Privacy Act of 1974; System of Records

**AGENCY:** Office of Personnel Management, Healthcare and Insurance.

**ACTION:** Notice of new system of records.

**SUMMARY:** In accordance with the Privacy Act of 1974, the Office of Personnel Management (OPM) proposes to publish a new system of records titled ''OPM/Central–27, FEHB Disputed Claims and Complaints Records.'' This system of records contains information about enrollees or their family members who have submitted a request to OPM for its review of healthcare claim denials made by Federal Employees Health Benefits (FEHB) plans. This system of records also contains records related to complaints received by OPM about the FEHB Program, Carriers, or plans. This newly established system of records will be included in OPM's inventory of record systems.

**DATES:** Please submit comments on or before September 12, 2022. This new system of records is effective upon publication in today's **Federal Register**, with the exception of the routine uses, which are effective September 16, 2022.

**ADDRESSES:** You may submit written comments through the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments. All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** For general questions, please contact Dyan Dyttmer, 202–606–1412. For privacy questions, please contact Kellie Cosgrove Riley, Chief Privacy Officer, 202–360–6065, or *privacy@opm.gov.*

**SUPPLEMENTARY INFORMATION:** In accordance with the Privacy Act of 1974, 5 U.S.C 552a, the Office of Personnel Management proposes to establish a new system of records titled ''OPM/Central–27, FEHB Disputed Claims and Complaints Records.'' Established in 1960 through the Federal Employees Health Benefits Act of 1959, 5 U.S.C. 8901 *et seq.,* the FEHB Program is the largest employer-sponsored group health insurance program globally, covering over 8 million individuals. Covered individuals, as defined in 5 CFR 890.101, include employees of the Federal government, annuitants, members of their families, former spouses, and miscellaneous groups, enumerated in 5 U.S.C. 8901; United States Postal Service employees and annuitants, pursuant to 39 U.S.C. 1005; tribal employees, pursuant to 25 U.S.C. 1647b; and separated employees and former dependents who are eligible for Temporary Continuation of Coverage under 5 U.S.C. 8905a.

OPM receives, stores, and processes requests from individuals covered by FEHB plans (or their authorized representatives) to review healthcare claim denials made by FEHB plans. As part of this review, OPM gathers records related to the denied claim from the covered individual (or authorized representatives) and the FEHB Carrier. OPM may also submit records to an Independent Medical Reviewer to obtain an advisory opinion from an independent healthcare professional. OPM issues a written decision regarding the disputed claim; if OPM reverses the denied healthcare claim, in whole or in part, the FEHB Carrier is required to comply with OPM's decision. This system of records includes the request for review, all records related to the review, correspondence, and OPM's decision.

OPM also receives complaints about the FEHB Program, Carriers, or plans. These complaints may come from a variety of sources including FEHB-covered individuals,[1] health care providers, Congressional and White House inquiries, tribal entities, the Department of Health and Human Services and other Federal, State, or local agencies. This system of records includes the complaints, any records received or developed by OPM related to investigating the complaints, and OPM's response to the complaints.

The records in this new system of records to date have been included in the OPM/Central–1 Civil Service Retirement and Insurance system of records (OPM/Central–1). However, OPM's organizational structure and its retirement and insurance programs have evolved over time and OPM has determined that OPM/Central–1 no longer provides the public with the most informative notice regarding the system of records, nor adequately facilitates individuals' ability to exercise their rights under the Privacy Act and OPM's ability to respond effectively. Accordingly, OPM is in the process of regrouping the records currently contained in OPM/Central–1 and publishing corresponding systems of records notices. Additional systems of records notices related to other record sets currently encompassed in OPM/Central–1 have been previously published or will be published in the future.

FEHB disputed claims and complaints records will now be maintained in the system of records known as OPM/Central–27, FEHB Disputed Claims and Complaints Records. This newly established system of records will be included in OPM's inventory of records systems. In accordance with 5 U.S.C. 552a(r), OPM has provided a report of this system of records to the Office of Management and Budget and to Congress.

Office of Personnel Management.

**Stephen Hickman,**

*Federal Register Liaison.*

**SYSTEM NAME AND NUMBER:**

FEHB Disputed Claims and Complaints Records, OPM/Central–27

**SECURITY CLASSIFICATION:**

Unclassified.

**SYSTEM LOCATION:**

Healthcare and Insurance, Office of Personnel Management, 1900 E Street NW, Suite 3400, Washington, DC 20415 is responsible for this system of records. The electronic records in this system are maintained at OPM's data center in Macon, Georgia.

**SYSTEM MANAGER(S):**

Associate Director, Healthcare and Insurance, Office of Personnel Management, 1900 E St NW, Washington, DC 20415.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

5 U.S.C. Chapter 89, Health Insurance; 5 CFR part 890 (health insurance generally); 5 CFR 890.105 and § 890.107 (regarding OPM's review of denied claims and judicial review of OPM's final action); and 5 CFR 890.114 (regarding complaints related to surprise billing).

**PURPOSE(S) OF THE SYSTEM:**

The purpose of this system of records is to collect, process, review, maintain, and make decisions concerning disputed healthcare claims for individuals covered by FEHB plans; collect, process, review, maintain, and respond to complaints regarding the FEHB Program, Carriers, and plans;

[1] Under 5 CFR 890.101(a) a ''covered individual'' means an enrollee or covered family member. An ''enrollee'' means an individual in whose name the enrollment is carried. Under 5 CFR 890.105(e), a covered individual is authorized to submit a disputed claim to OPM.

track the progress of individual disputed claims and complaints so that timely decisions and responses are rendered; and create and maintain the administrative record in the event of judicial review of OPM's decision related to a disputed healthcare claim. In addition, OPM uses the records in this system of records to evaluate FEHB Carrier compliance with the plan brochure and the contract, and to evaluate and improve FEHB Program benefits and processes.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

a. Enrollees (defined in 5 CFR 890.101) and their family members who have filed an FEHB disputed claim.

b. Individuals who have submitted a complaint to OPM about the FEHB Program, Carriers, or plans.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

a. Name;

b. Date of birth;

c. Home address;

d. Email address;

e. Telephone number;

f. Health plan name and member ID;

g. Dates of service under appeal;

h. All materials submitted by the individual or duly authorized representative related to the disputed claim, including written correspondence and emails;

i. Explanation of benefits, including advanced explanation of benefits;

j. Good Faith Estimate of charges;

k. Notice and Consent Documents related to the No Surprises Act;

l. Reconsideration determination related to the disputed claim from the FEHB Carrier and any related correspondence;

m. Bills related to the disputed claim;

n. Medical records related to the disputed claim;

o. Response from the FEHB Carrier to OPM regarding the disputed claim;

p. Advisory opinion from the Independent Medical Reviewer;

q. Copy of OPM's final disposition of the claim and any other agency correspondence;

r. System-generated reports or documents;

s. All materials submitted to OPM related to a complaint submitted to OPM about the FEHB Program, Carriers, or plans;

t. All materials generated by OPM in reviewing a complaint submitted to OPM about the FEHB Program, Carriers, or plans; and

u. Any response generated by OPM to a complaint submitted to OPM about the FEHB Program, Carriers, or plans.

**RECORD SOURCE CATEGORIES:**

The records in this system related to disputed claims are obtained from individuals covered by FEHB plans or their duly authorized representatives, FEHB Carriers, and Independent Medical Reviewers. The records in this system related to complaints are obtained from a variety of sources including FEHB-covered individuals, health care providers, Congressional and White House inquiries, tribal entities, the Department of Health and Human Services and other Federal, State, or local agencies.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside OPM as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

a. To the Department of Justice, including Offices of the U.S. Attorneys; another Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body; another party in litigation before a court, adjudicative, or administrative body; or to a court, adjudicative, or administrative body. Such disclosure is permitted only when it is relevant or necessary to the litigation or proceeding and one of the following is a party to the litigation or has an interest in such litigation:

(1) OPM, or any component thereof;

(2) Any employee or former employee of OPM in his or her official capacity;

(3) Any employee or former employee of OPM in his or her individual capacity where the Department of Justice or OPM has agreed to represent the employee;

(4) The United States, a Federal agency, or another party in litigation before a court, adjudicative, or administrative body, upon the OPM General Counsel's approval, pursuant to 5 CFR part 295 or otherwise.

b. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, when a record, either on its face or in conjunction with other information, indicates or is relevant to a violation or potential violation of civil or criminal law or regulation.

c. To a member of Congress from the record of an individual in response to an inquiry made at the request of the individual to whom the record pertains.

d. To the National Archives and Records Administration (NARA) for records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.

e. To appropriate agencies, entities, and persons when (1) OPM suspects or has confirmed that there has been a breach of the system of records,· (2) OPM has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OPM (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OPM's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

f. To another Federal agency or Federal entity, when OPM determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

g. To contractors, grantees, experts, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, or other assignment for OPM when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to OPM employees.

h. To FEHB Carriers for the purpose of obtaining complete records held by the plan regarding the claim or claims in dispute, obtaining responsive information relating to a complaint related to the Carrier or its FEHB plan, or providing OPM's decision regarding the disputed claim review or OPM's response regarding a complaint.

i. To an Independent Medical Reviewer for the purpose of obtaining an advisory opinion from the Reviewer regarding the claim or claims in dispute.

j. To an individual or entity submitting a complaint to OPM about the FEHB Program, Carriers, or plans, a response or report of outcome related to the complaint.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

The electronic records in this system of records are maintained in an

encrypted database. Paper records are kept in lockable metal file cabinets or in a secured facility. Access to records is limited to those whose official duties require access.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

These records are retrieved primarily by the name of the individual, FEHB health plan name, date of birth and/or claim number of the individual to whom they pertain but may be retrieved by any personal identifier.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

The disputed claims and complaints records are subject to the NARA-approved records schedule NC1–146–77–01 INS 4(b) relating to Healthcare and Insurance claims correspondence, correspondence with individuals or carriers' representatives on the interpretation of contracts, and settlement of Federal employee claims under health benefits and life insurance plans.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

Records in this system are protected from unauthorized access and misuse through various administrative, technical, and physical security measures. OPM security measures are in compliance with the Federal Information Security Modernization Act of 2014 (Pub. L. 113–203), associated OMB policies, and applicable standards and guidance from the National Institute of Standards and Technology (NIST). Transmission of the data feed from FEHB Carriers and Independent Medical Reviewers to this system is encrypted in compliance with NIST Federal Information Processing Standards Publication 197.

**RECORD ACCESS PROCEDURES:**

Individuals seeking notification of and access to their records in this system of records may do so by submitting a request in writing to the Office of Personnel Management, Office of Privacy and Information Management—FOIA, 1900 E Street NW, Washington, DC 20415–7900 or by emailing *foia@opm.gov;* ATTN: Healthcare and Insurance. Individuals must furnish the following information for their records to be located:

1. Full name, including any former name.
2. Date of birth.
3. FDC Control Number, if known.
4. Reasonable specification of the requested information.
5. The address to which the information should be sent.
6. Signature.

Individuals requesting access must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297). Medical or psychological records may also be subject to 5 CFR 297.205.

**CONTESTING RECORD PROCEDURES**

Individuals wishing to request amendment of their records in this system of records may do so by writing to the to the Office of Personnel Management, Office of Privacy and Information Management—FOIA, 1900 E Street NW, Room 5415, Washington, DC 20415–7900 or by emailing *foia@opm.gov;* ATTN: Healthcare and Insurance. Requests for amendment of records should include the words ''PRIVACY ACT AMENDMENT REQUEST'' in capital letters at the top of the request letter; if emailed, please include those words in the subject line. Individuals must furnish the following information for their records to be located:

1. Full name, including any former name.
2. Date of birth.
3. Name and address of employing agency or retirement system.
4. Precise identification of the information to be amended.
5. Signature.

Individuals requesting amendment of their records must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297). OPM may refer amendment requests to other entities when those entities are the original source of the record.

**NOTIFICATION PROCEDURES**

See ''Record Access Procedures.''

**EXEMPTIONS PROMULGATED FOR THE SYSTEM**

None.

**HISTORY**

OPM/Central–1, Civil Service Retirement and Insurance Records, 73 FR 15013 (March 20, 2008), 80 FR 74815 (November 30, 2015).

[FR Doc. 2022–17392 Filed 8–11–22; 8:45 am]

**BILLING CODE 6325–63–P**

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–412, OMB Control No. 3235–0469]**

## Submission for OMB Review; Comment Request: Extension; Rule 17Ad–17

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 17Ad–17 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 17Ad–17 requires certain transfer agents and broker-dealers to make two searches for the correct address of lost securityholders using an information database without charge to the lost securityholders. In addition, paying agents are required to attempt to notify lost payees at least once. In addition, the entities also are required to maintain records relating to the searches and notifications.

The Commission staff estimates that the rule applies to approximately 496 broker dealers and transfer agents, and 3,113 paying agent entities, including carrying firms, transfer agents, indenture trustees, custodians, and approximately 10% of issuers. The Commission staff estimates that the total annual burden for searches is approximately 183,813 hours and the total annual burden for paying agent notifications is approximately 38,913 hours. In addition, approximately 5,968 burden hours are associated with recordkeeping, representing an annual burden of 4,411 hours for the broker-dealers and transfer agents, and 1,557 for paying agents. The Commission staff estimates that the aggregate annual burden is therefore approximately 228,694 hours (183,813 + 38,913 + 5,968).

In addition, the Commission staff estimates that covered entities will incur costs of approximately $6,617,298 annually, primarily as payment to third party data base providers that will search for the missing securityholders.

The retention period for the recordkeeping requirement under Rule 17Ad–17 is not less than three years following the date the notice is submitted. The recordkeeping requirement under this rule is mandatory to assist the Commission in monitoring compliance with the rule. This rule does not involve the collection of confidential information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: >*www.reginfo.gov*<. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by September 12, 2022 to (i) >*MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov*< and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov*.

Dated: August 8, 2022.

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2022–17314 Filed 8–11–22; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[SEC File No. 270–447, OMB Control No. 3235–0504]**

### Submission for OMB Review; Comment Request: Extension; Rule 19b–4(e) and Form 19b–4(e)

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Rule 19b–4(e) (17 CFR 240.19b–4(e)) under the Securities Exchange Act of 1934 (15 U.S.C 78a *et seq.*) (the ''Act'').

Rule 19b–4(e) permits a self-regulatory organization (''SRO'') to list and trade a new derivative securities product without submitting a proposed rule change pursuant to Section 19(b) of the Act (15 U.S.C. 78s(b)), so long as such product meets the criteria of Rule 19b–4(e) under the Act. However, in order for the Commission to maintain an accurate record of all new derivative securities products traded on the SROs, Rule 19b–4(e) requires an SRO to file a summary form, Form 19b–4(e), to notify the Commission when the SRO begins trading a new derivative securities product that is not required to be submitted as a proposed rule change to the Commission. Form 19b–4(e) should be submitted within five business days after an SRO begins trading a new derivative securities product that is not required to be submitted as a proposed rule change. In addition, Rule 19b–4(e) requires an SRO to maintain, on-site, a copy of Form 19b–4(e) for a prescribed period of time.

This collection of information is designed to allow the Commission to maintain an accurate record of all new derivative securities products traded on the SROs that are not deemed to be proposed rule changes and to determine whether an SRO has properly availed itself of the permission granted by Rule 19b–4(e). The Commission reviews SRO compliance with Rule 19b–4(e) through its routine inspections of the SROs.

The respondents to the collection of information are SROs (as defined by the Act), all of which are national securities exchanges. As of April 8, 2022 there were 24 entities registered as national securities exchanges with the Commission. The Commission receives an average total of 2,331 responses per year, which corresponds to an estimated annual hour burden of approximately 2,331 hours (2,331 responses × 1 hour per response). At an average hourly cost of $72, the aggregate related internal cost of compliance for Rule 19b–4(e) is approximately $167,832 per year (2,331 burden hours multiplied by $72/hour).

Compliance with Rule 19b–4(e) is mandatory. Information received in response to Rule 19b–4(e) shall not be kept confidential; the information collected is public information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website, *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by September 12, 2022 to (i) *www.reginfo.gov/public/do/PRAMain* and (ii) David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: August 8, 2022.

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2022–17308 Filed 8–11–22; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–95445; File No. SR–MEMX–2022–10]**

### Self-Regulatory Organizations; MEMX LLC; Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rules To Govern the Trading of Options on the Exchange for a New Facility Called MEMX Options

August 8, 2022.

### I. Introduction

On April 21, 2022, MEMX LLC (''MEMX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt rules to establish a facility to trade options, which will be named MEMX Options. The proposed rule change was published for comment in the **Federal Register** on May 10, 2022.[3] In its filing, MEMX consented to an extension of time for Commission action to ninety (90) days after the date of publication of the proposal.[4] On August 8, 2022, the Exchange filed Amendment No. 1 to the proposed rule change.[5] This order approves the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 94847 (May 4, 2022), 87 FR 28064 (''Notice''). The Commission received one comment letter on the proposed rule change. *See* Letter from Andrew Robinson, dated May 5, 2022, available at *https://www.sec.gov/comments/sr-memx-2022-10/srmemx202210-289458.htm.* The comments expressed by the commenter are not relevant to the proposed rule change.

[4] *See* Item 6 of MEMX's Rule 19b–4 filing. *See also* Notice, *supra* note 3, at 28076, n.37.

[5] Amendment No. 1 superseded and replaced the original filing. In Amendment No. 1, the Exchange proposes non-material revisions to the proposed rule text and added additional detail to the filing. *See infra* Section VI. When it submitted Amendment No. 1, the Exchange also submitted it as a comment letter to the filing, available at: *https://www.sec.gov/comments/sr-memx-2022-10/srmemx202210.htm.*

## II. Description of the Proposed Rule Change

The Exchange proposes to adopt new Chapters 16–29 into its rulebook to govern MEMX Options. In addition, the Exchange proposes to add rule text to existing Chapters 2 (Members of the Exchange) and 8 (Discipline) so that those chapters take into account the new options rule set. MEMX Options will operate an electronic trading system for options (the ''System'') that will provide for the electronic display and execution of orders, which the Exchange intends to operate ''in a manner similar to that of other options exchanges.'' [6] As such, the proposed rules for MEMX Options are, for the most part, substantially similar to those of currently operating options exchanges, in particular Cboe BZX Exchange, Inc. (''Cboe BZX'' or ''Cboe BZX Options'').

*MEMX Options Members*

The proposed rules relating to qualification and participation on MEMX Options are set forth in proposed Chapters 17 and 22. These rules are substantively identical to the corresponding rules of Cboe BZX Options, with the only differences being internal references and other minor technical differences.[7] A detailed summary of the provisions set forth in Chapters 17 and 22 is provided in the filing.[8]

MEMX will have only one type of member, referred to as an ''Options Member,'' which must be a registered broker-dealer.[9] Only Options Members and their Sponsored Participants will be permitted to transact on the System.[10] An Options Member must maintain membership in another registered options exchange that is not registered solely under Section 6(g) of the Act,[11] or in the Financial Industry Regulatory Authority (''FINRA'').[12] Every Options Member will be required to have at least one registered and licensed Options Principal that has responsibility for the overall oversight of the Options Member's options related activities on the Exchange.[13]

An Options Member that represents customer orders as an agent on MEMX Options and those that conduct proprietary trading as principal other than in the capacity of a market maker are referred to as Options Order Entry Firms (''OEFs''). OEFs may only transact business with Public Customers if they are members of FINRA.[14]

In addition, an Options Member can seek to register with the Exchange as an Options Market Maker to make markets in specific classes of options it chooses in advance (''appointed classes'') where it would have certain rights and bear certain responsibilities beyond those of other Options Members.[15] In particular, Options Market Makers commit to electronically engage in a course of dealings to enhance liquidity available on MEMX Options and to assist in the maintenance of fair and orderly markets.[16] Among other things, an Options Market Maker must, at a minimum for its appointed classes subject to the provisions of MEMX's rules, maintain a continuous two-sided quotation for 60% of time those classes are open for trading, excluding any adjusted series, any intraday add-on series on the day during which such series are added for trading, any Quarterly Option Series, and any series with an expiration of greater than 270 days.[17] In their appointed classes, Options Market makers must also: (i) engage to a reasonable degree under the existing circumstances, in dealings for its own accounts when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of (or demand for) a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class; (ii) compete with other market makers, (iii) maintain firm quotes; (iv) update their quotes in response to changed market conditions; and (v) maintain active markets.[18] Substantial or continued failure by an Options Market Maker to meet any of its obligations and duties would subject the Options Market Maker to disciplinary action or suspension or revocation of registration as an Options Market Maker or its appointment in one or more appointed classes.[19]

Furthermore, existing Exchange Rules applicable to the MEMX equities market contained in Chapters 1 through 15 of the Exchange Rules will apply to Options Members unless a specific Exchange Rule applicable to MEMX Options (*i.e.,* proposed Chapters 16 through 29 of the Exchange Rules) governs.[20]

*Definitions*

Chapter 16.1 sets forth the defined terms used in Chapters 16 to 29 relating to the trading of options contracts on the Exchange. Each of the terms defined in Rule 16.1 is either identical or substantially similar to definitions in Cboe BZX Rule 16.1. A complete list of the defined terms is set forth in the filing.[21]

*Options Trading System*

The Exchange states that MEMX Options will leverage the Exchange's current technology, including its customer connectivity, messaging protocols, quotation and execution engine, order router, data feeds, and network infrastructure.[22] According to the Exchange, MEMX Options will closely resemble the Exchange's equities market, as well as other options markets, such as Cboe BZX Options.[23]

MEMX Options will not have a physical trading floor. All trading interest entered into the System will be automatically executable. Orders entered into the System will be displayed anonymously.[24]

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[6] *See* Notice, *supra* note 3, at 28064. *See also* Amendment No. 1 at 4.

[7] *See* Cboe BZX Rules, Chapters XVII and XXII.

[8] *See* Notice, *supra* note 3, at 28065. *See also* Amendment No. 1 at 5–8.

[9] *See* MEMX Rule 2.3.

[10] See MEMX Rule 17.1(a). Options Members can provide sponsored access to MEMX Options to a non-Member (*i.e.,* a Sponsored Participant) pursuant to MEMX Rule 11.3, subject the conditions of that rule. MEMX Options will assign a unique Executing Firm ID (''EFID'') to identify a single User and a specific number. *See* MEMX Rule 21.1(j). A User may obtain one or more EFIDs from the Exchange.

[11] 15 U.S.C. 78f(g).

[12] *See* MEMX Rule 17.2(f).

[13] *See* MEMX Rule 17.2(g).

[14] *See id. See also* MEMX Rule 16.1 (defining ''Public Customer'' to means a person that is not a broker or dealer in securities). In addition, an OEF may only transact business with Public Customers if such Options Member also is an options member of another registered national securities exchange or association with which the Exchange has entered into an agreement under Rule 17d–2 under the Act pursuant to which such other exchange or association is the designated options examining authority for the OEF. *See* MEMX Rule 26.1.

[15] *See* MEMX Rule 22.2. Market Makers are designated as specialists on MEMX Options for all purposes under the Act. *See id.*

[16] *See* MEMX Rule 22.5. MEMX's rules will not, at this time, limit the number of Market Makers that can register to make markets on MEMX Options or limit the number of class appointments a Market Maker can hold. MEMX Rule 22.2(c) allows the Exchange to file a proposed rule change to propose certain limitations based on system constraints, capacity restrictions, or other factors relevant to protecting the integrity of the System. In the absence of an effective rule, the Exchange cannot restrict access in any options class.

[17] *See* MEMX Rule 22.6.

[18] *See* MEMX Rule 22.5(a).

[19] *See* MEMX Rule 22.5(c).

[20] *See* MEMX Rule 16.2(b).

[21] *See* Notice, *supra* note 3, at 28065–67. *See also* Amendment No. 1 at 8–18.

[22] *See* Notice, *supra* note 3, at 28067. *See also* Amendment No. 1 at 16. According to the Exchange, this will minimize the technical effort required for existing Exchange members to begin trading options on MEMX Options. *See id.*

[23] *See id.*

[24] However, aggregated and individual transaction reports produced by the System will indicate the details of a User's transactions, including the contra party's executing firm ID (''EFID''), capacity, and clearing firm account number. The Exchange also will reveal a User's

Continued

Like the Exchange's equities facility, MEMX Options will maintain a price/time allocation model across all participants rather than differentiating between participants. As such, MEMX Options will execute all trading interest at the best price level within the System before executing trading interest at the next best price.[25] At each price level, trading interest will be executed in time sequence, such that the order established as the first entered into the System at such price level will have priority up to its specific number of contracts.[26] MEMX has not proposed any additional priority overlays. In addition, MEMX Options has not proposed to have non-displayed orders, and thus all interest will be displayable.

MEMX will be a member of the Options Price Reporting Authority (''OPRA'') and will disseminate its quotations in accordance with Rule 602 of Regulation NMS.[27] MEMX Options also will offer proprietary data feeds including ''MEMOIR Options Depth'' (depth of book quotations/orders and execution information), ''MEMIR Options Top'' (top of book quotations/orders and execution information), ''DROP'' (regarding the trading activity of the User), and Historical Data.[28]

The Exchange will become an exchange member of the Options Clearing Corporation (''OCC''). The System will be linked to OCC for the Exchange to transmit locked-in trades for clearance and settlement.

*Hours of Operation.* MEMX Options will accept orders from 9:30 a.m. until 4:00 p.m. Eastern Time, except that it will accept orders until 4:15 p.m. for option contracts on Fund Shares, exchange-traded notes, and broad-based indexes.[29]

*Minimum Quotation and Trading Increments.* The Exchange's minimum quotation and trading increments will be the same as on other exchanges, including Cboe BZX Options.[30] Specifically, the Exchange will have the following standard quotation increments: (i) if the options series is trading at less than $3.00, five (5) cents; (ii) if the options series is trading at $3.00 or higher, ten (10) cents; and (iii) if the options series is trading pursuant to the Penny Interval Program, one (1) cent if the options series is trading at less than $3.00, or five (5) cents if the options series is trading at $3.00 or higher, unless for QQQ, SPY, or IWM where the minimum quoting increment will be one (1) cent for all series.[31] In addition, the minimum trading increment will be one (1) cent for all series.[32]

*Penny Interval Program.* The Exchange's Penny Interval Program is substantially similar to the penny programs of other exchanges, which includes minimum quoting requirements for option classes listed under the Penny Interval Program. However, eligibility for inclusion in the Penny Interval Program will be limited to those classes already operating under penny programs of other options exchanges at the time MEMX Options is launched.[33] The list of option classes included in the Penny Interval Program will be announced by the Exchange via circular distributed to Options Members and published by the Exchange on its website.[34]

*Order Types and Handling Instructions.* MEMX Options will make available to Users two Order Types: Limit Orders [35] and Market Orders.[36] MEMX Options also may make available to Users a few additional instructions that can be designated on an order (''Handling Instructions'').[37] Those Handling Instructions include Book Only,[38] Post Only,[39] and Intermarket Sweep Order (''ISO'').[40] The characteristics and functionality of each Order Type and Handling Instruction is substantially similar to what is used for the Exchange's equities trading facility or on other options exchanges, including Cboe BZX Options, except where discussed in the amended filing or as relates to the display-price sliding process offered by Cboe BZX Options, which the Exchange is not proposing to adopt.[41] Cboe BZX Options offers additional order types, such as reserve orders, minimum quantity orders, price-improving orders, stop orders, and stop limit orders, none of which the Exchange proposes to adopt.[42]

*Time-in-Force Designations.* Users entering orders into the System may designate such orders to remain in force and available for display and/or potential execution for varying periods of time.[43] Unless cancelled earlier, once these time periods expire, the order (or the unexecuted portion thereof) is returned to the entering party. The Time-in-Force designations available on

identity: (i) when a registered clearing agency ceases to act for a participant, or the User's clearing firm, and the registered clearing agency determines not to guarantee the settlement of the User's trades; and (ii) for regulatory purposes or to comply with an order of an arbitrator or court. *See* MEMX Rule 21.10.

[25] *See* MEMX Rule 21.8(a).

[26] *See id.*

[27] *See* 17 CFR 242.602.

[28] *See* MEMX Rule 21.15(b).

[29] *See* MEMX Rule 21.2(a).

[30] *See* Cboe BZX Rule 21.5(a) and (b).

[31] *See* MEMX Rule 21.5(a).

[32] *See* MEMX Rule 21.5(b).

[33] *See* MEMX Rule 21.5(d)(1).

[34] *See* MEMX Rule 21.5(d).

[35] Limit Orders are orders (including bulk messages) to buy or sell an option at a specified price or better. A Limit Order is marketable when, for a Limit Order to buy, at the time it is entered into the System the order is priced at the current inside offer or higher, or for a Limit Order to sell, at the time it is entered into the System the order is priced at the current inside bid or lower. *See* MEMX Rule 21.1(d)(1).

[36] Market Orders are orders to buy or sell at the best price available at the time of execution. Market Orders to buy or sell an option traded on MEMX Options will be rejected if they are received when the underlying security is subject to a ''Limit State'' or ''Straddle State'' as defined in the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS under the Act (the ''Limit Up-Limit Down Plan''). Bulk messages may not be Market Orders. *See* MEMX Rule 21.1(d)(2).

[37] *See* MEMX Rule 21.1(e). A Handling Instruction applied to a bulk message applies to each bid and offer within that bulk message. *See id.*

[38] *See* MEMX Rule 21.1(e)(1). Book Only is an instruction that an order is to be ranked and executed on the Exchange or cancelled, as appropriate, without routing away to another options exchange. *See id.* Users may designate bulk messages as Book Only as set forth in MEMX Rule 21.1(l). *See id.*

[39] *See* MEMX Rule 21.1(e)(2). Post Only is an instruction that an order is to be ranked and executed on the Exchange or cancelled, as appropriate, without routing away to another options exchange except that the order will not remove liquidity from the MEMX Options Book. A Market Order cannot be designated as Post Only. *See id.* Users may designate bulk messages as Post Only as set forth in MEMX Rule 21.1(l). *See id.*

[40] *See* MEMX Rule 21.1(e)(3). ISO orders, defined in MEMX Rule 27.1(a)(10), may be executed at one or multiple price levels in the System without regard to Protected Quotations at other options exchanges (*i.e.,* may trade through such quotations) because the User represents that it simultaneously has routed additional orders to execute against the full displayed size of any Protected Bid/Offer (as applicable). *See id.* The Exchange will rely on the marking of an order as an ISO order when handling such order. *See id.* ISOs are not eligible for routing pursuant to MEMX Rule 21.9. *See id.* Users may not designate a Market Order as an ISO. *See id.* Users may not designate bulk messages as ISOs. *See id.*

[41] The Exchange explains that, in contrast to Cboe BZX Options, it proposes characterizing Book Only, Post Only, and ISO as Handling Instructions rather than Order Types, as each of these instructions represents an additional modifier that can be appended to an order rather than a unique Order Type. *See* Notice, *supra* note 3, at 28069. *See also* Amendment No. 1 at 23. Not all Handling Instructions can be applied to all Order Types (*e.g.,* Market Orders cannot be designated ISO). *See* MEMX Rule 21.1(e)(3). The Exchange does not believe that this characterization changes anything with respect to the proposed operation of these order types and Handling Instructions. *See* Notice, *supra* note 3, at 28069. *See also* Amendment No. 1 at 23–24.

[42] *See* Notice, *supra* note 3, at 28069. *See also* Amendment No. 1 at 24.

[43] A Time-in-Force applied to a bulk message applies to each bid and offer within that bulk message. *See* MEMX Rule 21.1(g).

MEMX Options include Immediate or Cancel (''IOC'') [44] or Day.[45]

The Time-in-Force designations are identical to the same Time-in-Force designations available on Cboe BZX Options, except that Cboe BZX Options rules describe Time-in-Force designations as applicable only to limit orders on Cboe BZX Options, whereas the Exchange has proposed allowing such designations to be placed on both Limit Orders and Market Orders.[46]

*Member Match Trade Prevention Modifiers.* As with its equities market, the Exchange will allow Users to use certain Match Trade Prevention (''MTP'') modifiers.[47] Any incoming order designated with an MTP modifier will be prevented from executing against a resting opposite side order also designated with an MTP modifier and originating from the same EFID, Exchange Member identifier, trading group identifier, or Exchange Sponsored Participant identifier. The Exchange will offer the following MTP modifiers: (i) MTP Cancel Newest; (ii) MTP Cancel Oldest; and (iii) MTP Cancel Both.[48] The Exchange explains that each of the proposed MTP modifiers available on MEMX Options is identical to the same MTP modifier available on Cboe BZX Options.[49]

*Re-Pricing Mechanism.* MEMX Options will offer a re-pricing mechanism (''Price Adjust'') to comply with the order protection and trade through restrictions of the Linkage Options Order Protection and Locked/Crossed Market Plan (''Linkage Plan''). This re-pricing mechanism is identical to the Price Adjust mechanism offered by Cboe BZX Options, with the exception of the handling of an order with a Post Only instruction subject to the Price Adjust process.[50] The Exchange explains that Cboe BZX Options applies the Price Adjust process when a Post Only Order locks or crosses a Protected Quotation displayed on Cboe BZX Options and re-prices such Post Only Order pursuant to Cboe BZX Rule 21.1(i)(4), but MEMX is not proposing to adopt this clause. Rather, the System will cancel a Post Only Order that locks or crosses a Protected Quotation displayed on MEMX Options. If a User elects to not subject an order (including bulk messages) to the Price Adjust process, it can use a ''Cancel Back'' instruction.[51] The System will cancel or reject an order with a Cancel Back instruction if displaying it on the Book would create a violation of Rule 27.3 (Locked and Crossed Markets), or if the order cannot otherwise be executed or displayed in the Book at its limit price.[52]

*Ports and Bulk Messages.* MEMX Options will offer ''physical ports'' that provide a physical connection to the System and ''logical ports'' (or ''application sessions'') that provide Users with the ability within the System to accomplish a specific function through a connection, such as order entry, data receipt, or access to information.[53]

MEMX Options will offer ''bulk message'' functionality whereby Market Makers will be able to use a single electronic message to enter, modify, or cancel up to a specified number of bids and offers.[54] Bulk messages are subject to the following conditions: (i) bulk messages must contain a Time-in-Force of Day or IOC; (ii) a Market Maker with an appointment in a class must designate a bulk message for that class as Post Only or Book Only, and a non-appointed Market Maker must designate a bulk message for that class as Post Only; (iii) the System cancels or rejects a Post Only bulk message bid (offer) with a price that locks or crosses the Exchange best offer (bid) or ABO (ABB); [55] and (iv) the System executes a Book Only bulk message bid (offer) that locks or crosses the ABO (ABB) against offers (bids) resting in the Book at prices the same as or better than the ABO (ABB) and then cancels the unexecuted portion of that bid (offer).[56]

*Market Opening Procedures.* The Exchange is not proposing to have an opening cross or opening auction. Rather, for stock options, the System simply will open a class of options following the first regular hours (*i.e.,* after 9:30 a.m. Eastern Time) transaction in the underlying security as reported on the first print disseminated pursuant to an effective national market system plan.[57] In the event of a delay, the Exchange can determine in the interests of a fair and orderly market to open trading in the class.[58] With respect to index options, the System will open a class for trading after a period following the first post-9:30 a.m. (Eastern Time) disseminated index value for the applicable index.[59] Because the Exchange does not propose to adopt an opening cross or similar opening process, the opening trade that occurs on the Exchange will be a trade in the ordinary course of dealings on the Exchange. Accordingly, the System will ensure that the opening trade in an options series will not trade through a Protected Quotation at another options exchange, consistent with the general standard regarding trade throughs in MEMX Rule 21.6(e).[60]

Additionally, the Exchange may delay the commencement of trading in any class of options in the interests of a fair and orderly market.[61] Orders received

[44] *See* MEMX Rule 21.1(g)(1). IOC orders are to be executed in whole or in part as soon as such order is received. *See id.* The portion not so executed immediately on the Exchange or another options exchange is cancelled and is not posted to the MEMX Options Book. *See id.* IOC orders that are not designated as Book Only and that cannot be executed in accordance with MEMX Rule 21.8 on the System when reaching the Exchange will be eligible for routing away pursuant to proposed MEMX Rule 21.9. *See id.* Users may designate bulk messages as IOC. *See id.*

[45] *See* MEMX Rule 21.1(g)(2). Day orders, if not executed, expire at market close. Users may designate bulk messages as Day. *See id.*

[46] The Exchange notes that Cboe BZX Options offers additional Times-in-Force, such as good til cancelled, fill-or-kill, at the open, limit-on-close, and market-on-close, none of which the Exchange proposes to adopt. *See* Notice, *supra* note 3, at 28069. *See also* Amendment No. 1 at 25.

[47] *See* MEMX Rule 21.1(h).

[48] *See* MEMX Rule 21.1(h)(1)–(3).

[49] *See* Notice, *supra* note 3, at 28069. *See also* Amendment No. 1 at 25. The Exchange notes that Cboe BZX Options offers additional MTP modifiers, such as MTP Decrement and Cancel and MTP Cancel Smallest, neither of which the Exchange proposes to adopt. *See id.*

[50] *See* MEMX Rule 21.1(i). *See also* Cboe BZX Rule 21.1(i).

[51] *See* MEMX Rule 21.1(m).

[52] *See id.*

[53] A User is able to designate which of its EFIDs may be used for each of its ports. *See* MEMX Rule 21.1(j)(3). If a User submits an order or quote through a port with an EFID not enabled for that port, the System cancels or rejects the order or quote. *See id.*

[54] Cboe BZX Options offers specific ports used for bulk messages whereas the Exchange is not proposing to offer bulk ports. *See* Notice, *supra* note 3, at 28070. *See also* Amendment No. 1 at 27.

[55] The term ''ABBO'' means the best bid(s) or offer(s) disseminated by other Eligible Exchanges (as defined in MEMX Rule 27.1) and calculated by the Exchange based on market information the Exchange receives. *See* MEMX Rule 16.1.

[56] *See* MEMX Rule 21.1(l)(1)–(4).

[57] *See* MEMX Rule 21.7(a). The proposed market opening procedures for stock options are identical to the market opening procedures for such options that were initially adopted by Cboe BZX Options. *See* Securities Exchange Act Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, To Establish Rules Governing the Trading of Options on the BATS Options Exchange).

[58] *See* MEMX Rule 21.7(b).

[59] *See* MEMX Rule 21.7(a). The proposed opening procedures for index options are similar to Cboe BZX Options (Cboe BZX Rule 21.7(d)(2)), with a difference in that once the Cboe BZX Options system observes that an index value has been disseminated for the applicable index, Cboe BZX Options then commences an opening rotation (*i.e.,* an opening process to match liquidity at a price determined by the Cboe BZX Options system) while the Exchange is not proposing to adopt an opening rotation.

[60] *See* Notice, *supra* note 3, at 28070. *See also* Amendment No. 1 at 29.

[61] *See* MEMX Rule 21.7(c).

prior to the opening of the System will be cancelled.[62]

In the filing, the Exchange explains that it proposes a simplified opening procedures because for a successful opening process to function, MEMX believes an exchange needs a critical mass of liquidity from market participants in order to price and execute opening transactions.[63] In turn, as a new options exchange, MEMX Options does not know the amount of pre-opening interest it will have, and it will have to gain market share in order to accumulate such interest.[64]

*Routing.* Users may designate orders as eligible for routing to another options exchange during regular trading hours when trading interest on MEMX Options is not available.[65] An order that is designated as routable will be routed to other options exchanges to be executed at the National Best Bid and Offer (''NBBO'') when MEMX Options is not at the NBBO consistent with the Linkage Plan. Orders routed to other options exchanges do not retain time priority with respect to orders in the System, and the System will continue to execute orders while routed orders are away.[66] If a routed order is returned to MEMX Options, in whole or in part, that order (or its remainder) will receive a new time stamp reflecting the time of its return to the System.[67] Users whose orders are routed away will be obligated to honor trades executed on other options exchanges.[68]

Subject to the exceptions contained in Rule 27.2(b), the System will ensure that an order will not be executed at a price that trades through another options exchange. Any order entered with a price that would lock or cross a Protected Quotation that is not eligible for either routing or the price adjust process as defined in Rule 21.1(i) will be cancelled.

The Exchange explains that the routing functionality for MEMX Options is designed to operate much like the routing functionality for the Exchange's equities market, in that the Exchange ''offers a simple routing service to facilitate compliance with applicable regulations and does not currently offer other complex routing strategies.'' [69]

The Exchange will use its existing affiliated routing broker-dealer, MEMX Execution Services LLC (''MEMX Execution Services''), to route orders solely on behalf of MEMX Options.[70] MEMX Options will maintain a ''System routing table'' to determine the specific options exchanges to which the System will route orders and the order in which it will route them.[71] MEMX Execution Services is subject to regulation as a facility of the Exchange, including the requirement to file proposed rule changes under Section 19 of the Act.[72]

Use of routing services, including routing using MEMX Execution Services, is optional. Users that do not want to use routing services provided by the Exchange must designate orders as not available for routing.

To mitigate the financial and regulatory risks associated with providing Users with access to away options exchanges, MEMX has implemented certain tests to comply with market access requirements under Rule 15c3–5.[73] Pursuant those policies and procedures, if an order or series of orders are deemed to be erroneous or duplicative, would cause the entering User's credit exposure to exceed a preset credit threshold, or are non-compliant with applicable pre-trade regulatory requirements (as defined in Rule 15c3–5), MEMX Execution Services will reject such orders prior to routing and/or seek to cancel any orders that have been routed.

*Risk Controls.* Users of MEMX Options will have the ability to establish certain risk control parameters and limits that are intended to offer protection from entering orders outside of certain size and price parameters, as well as certain parameters based on order type and market conditions.[74] The proposed risk controls are based, in part, on those of Cboe BZX Options, with certain additions and differences described below.

Rule 21.16 sets forth a Risk Monitor Mechanism that will offer Users a choice between a ''passive'' risk counter [75] and an ''active'' risk counter.[76] Users may configure risk

[62] *See* MEMX Rule 21.6(c).

[63] *See* Notice, *supra* note 3, at 28070. *See also* Amendment No. 1 at 30.

[64] *See* Notice, *supra* note 3, at 28070. *See also* Amendment No. 1 at 30. The Exchange states that it will re-evaluate its opening procedures over time and may propose to add an opening process through a proposed rule filing submitted to the Commission in the future. *See id.*

[65] Bulk messages are not eligible for routing. *See* MEMX Rule 21.9(a). Alternatively, a User may designate an order as not eligible for routing.

[66] *See* MEMX Rule 21.9(b).

[67] *See id.*

[68] *See* MEMX Rule 21.9(c).

[69] *See* Notice, *supra* note 3, at 28071. *See also* Amendment No. 1 at 31. The Exchange notes that the proposed rules relating to the routing of orders on MEMX Options to away options markets are similar to the rules of Cboe BZX Options, except that the Exchange proposes to cancel any unexecuted portion of a Market Order after the System has routed to and received response from an away options market, whereas Cboe BZX Options offers additional handling instructions that may be chosen with respect to the unexecuted portion of an order after the System has routed to and received a response from an away options market, and Cboe BZX Options offers various additional routing options, such as routing to a specific destination or at specified price levels. *See also* Amendment No. 1 at 31–32.

[70] *See* MEMX Rules 2.11 and 21.9. MEMX Options will also offer back-up routing services in conjunction with one or more routing brokers that are not affiliated with the Exchange in case it is not able to provide order routing services through its affiliated broker-dealer, subject to the certain conditions and limitations. *See* MEMX Rule 21.9(e). Among other things, the Exchange would control the routing logic and the routing broker would not have any discretion. *See* MEMX Rule 21.9(e)(5). In addition, the Exchange would enter into an agreement with each routing broker that would, among other things, restrict the use of any confidential and proprietary information that the routing broker receives. *See* MEMX Rule 21.9(e)(1). The Exchange also must have procedures and internal controls reasonably designed to adequately restrict the flow of confidential and proprietary information between the Exchange and the routing broker, and any other entity, including any affiliate of the routing broker, and, if the routing broker or any of its affiliates engages in any other business activities other than providing routing services to the Exchange. *See* MEMX Rule 21.9(e)(2). The Exchange may not use a routing broker for which the Exchange or any affiliate of the Exchange is the designated examining authority. *See* MEMX Rule 21.9(e)(3).

[71] *See* MEMX Rule 21.9(a)(3).

[72] *See* 15 U.S.C. 78s. MEMX Execution Services is required to be a member of a self-regulatory organization unaffiliated with the Exchange that is its designated examining authority, and the Exchange is required to establish and maintain procedures and internal controls reasonably designed to restrict the flow of confidential and proprietary information between MEMX and its facilities. *See* MEMX Rule 2.11(a)(2) and (5). In addition, the books, records, premises, officers, directors, agents, and employees of MEMX Execution Services, as a facility of the Exchange, are deemed to be those of the Exchange for purposes of and subject to oversight pursuant to the Act. *See* MEMX Rule 2.11(b). Further, the Exchange must provide its routing services in compliance with the provisions of the Act and the rules thereunder, including, but not limited to, the requirements in Section 6(b)(4) and (5) of the Act that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. *See* MEMX Rule 21.9(e)(4).

[73] 17 CFR 240.15c3–5. *See also* MEMX Rule 21.9(f). The Exchange states that MEMX Rule 21.9(f) is substantively identical to Cboe BZX Rule 21.9(f). *See* Notice, *supra* note 3, at 28071. *See also* Amendment No. 1 at 33.

[74] *See* MEMX Rules 21.16 and 21.17.

[75] *See* MEMX Rule 21.16(a). In a ''passive'' risk counter, the Exchange counts a specific metric (*e.g.,* number of contracts executed) over a specific time interval and takes a specific action based on a User-configured parameter. For example, once a User executes its pre-defined limit of 10,000 contracts, the User might have instructed the Exchange to cancel or reject pending and additional orders.

[76] *See* MEMX Rule 21.16(b). In an ''active'' risk counter, the User can manage its risk limits by acknowledging its activity during the day. For example, if a User set a pre-defined limit of 10,000 contracts and then executes a series of trades exceeding 10,000 contracts, but with each execution the user submits an electronic instruction to the System acknowledging the execution and decrementing the counting program by a specific amount, then the System would decrement that value from the ongoing tally it maintains. In other

limits for various parameters, including number of contracts executed (''volume''), notional value of executions (''notional''), number of executions (''count''), number of contracts executed as a percentage of number of contracts outstanding within an Exchange-designated time period or during the trading day (''percentage''), and the number of times the limits on any of the foregoing parameters are reached (''risk trips'').[77] The System will track each of the parameters within an underlying for an EFID (''underlying limit''), across all underlyings for an EFID (''EFID limit''), across all underlyings for a group of EFIDs (''EFID Group limit''), and/or across a customized group of orders designated by the User (''Custom Group Limit''), over a User-established time period (''interval'') and on an absolute basis for a trading day (''absolute limits'').[78]

When the System determines that a specified parameter has reached the User's pre-defined risk limit and instructions, the Risk Monitor Mechanism will effectuate a User's pre-determined action from among the following options: (i) cancel or reject such User's orders or quotes in all series of the applicable underlying(s) and cancel or reject any additional orders or quotes from the User in the applicable underlying(s) until the counting program is reset; or (ii) suspend all of a User's resting orders or quotes in all series of the applicable underlying(s) and cancel or reject any additional orders or quotes from the User in the applicable underlying(s) until the Exchange is instructed to reinstate such bids and offers. A User may also engage the Risk Monitor Mechanism to cancel resting bids and offers, as well as subsequent orders as set forth in Rule 22.10 (''mass cancellation'') or to suspend all resting bids and offers until the Exchange is instructed to reinstate such bids and offers (''mass suspension''). When a User's resting orders or quotes have been suspended and the User instructs the Exchange to reinstate all such bids and offers, each reinstated order or quote shall receive a new timestamp reflecting the time it was re-posted to the MEMX Options Book.[79]

The Risk Monitor Mechanism's ''passive'' functionality is substantially similar to that offered on Cboe BZX Options, except that Cboe BZX Options' rule does not permit Users to designate a Custom Group Limit to track risk parameters across a customized group of orders, nor does Cboe BZX Options permit Users to choose to suspend, rather than cancel or reject, resting interest when a risk limit has been reached or to engage the Risk Monitor Mechanism for mass suspension as an alternative to mass cancellation.[80]

Cboe BZX Options rules do not presently contain a similar version of MEMX Option's proposed ''active'' Risk Monitor Mechanism functionality. As described above, in the ''active'' version, the System will increment the active risk counter associated with a defined parameter when the relevant activity occurs, and the System will decrement the active risk counter upon positive confirmation from the User via an electronic instruction that the User has acknowledged a change in the active risk counter. The User will be able to specify the value by which each parameter increments and decrements in the active risk counter. The proposed active risk counter will therefore enable a User to interact with the Risk Monitor Mechanism dynamically such that the User may actively acknowledge executions and decrement the counting program by a specified amount as such executions occur (or at any time), rather than waiting until a risk limit is reached or the User otherwise sends a specific instruction to the Exchange to completely reset the counting program. In the filing, the Exchange provides several examples to demonstrate how both the passive and active risk counters will operate.[81]

In addition to the Risk Monitor Mechanism functionality, the Exchange also will offer additional price protection mechanisms and risk controls that relate to certain standard or Exchange-established parameters based on order type and market conditions.[82] For example, MEMX Options will offer Market Order NBBO Width Protection, a Limit Order Fat Finger Check, a Buy Order Put Check, Drill-Through Price Protection, Protection for Market Orders in No-Bid Series, and a Bulk Message Fat Finger Check, each of which are described in the rule.[83] The Exchange explains that the additional price protection mechanisms and risk controls are substantially similar to those offered on Cboe BZX Options pursuant to Cboe BZX Rule 21.17, with slight modifications to align with the Exchange's proposed market opening procedures and available order types and instructions on MEMX Options, except that the Exchange is proposing a simplified version of the drill-through price protection mechanism described in proposed Rule 21.17(d).[84] Whereas the drill-through price protection mechanism offered on Cboe BZX Options pursuant to Cboe BZX Rule 21.17(d) executes an incoming order to a determined ''Drill-Through Price'' and then displays the remainder of the order on Cboe BZX Options at that price for a brief period of time, the Exchange is proposing to simply cancel the remainder of an incoming order after executing the order to the Drill-Through Price.[85]

*One Second Exposure Period.* Similar to other exchanges, MEMX Options will prohibit Options Members from executing, as principal, orders they represent as agent unless the agency order is first exposed on the Exchange for at least one second or the Options Member has been bidding or offering on MEMX Options at the execution price for at least one second prior to receiving the executable agency order.[86] During this one second exposure period, other Options Members will be able to enter orders to trade against the exposed order.

*Options Order Protection and Locked/Crossed Market Plan Rules*

The Exchange represents that it will participate in the Linkage Plan, and therefore will be required to comply with the obligations of participants under the Plan.[87] The Plan applies price-protection provisions to the options markets that are similar to those applicable to equities under Regulation NMS. Similar to Regulation NMS, the Plan requires the Plan Participants to adopt rules reasonably designed to prevent trade-throughs while exempting ISOs from that prohibition.

The Exchange explains that Chapter 27 (Options Order Protection and Locked and Crossed Markets Rules) is designed to conform to the requirements of the Plan, and the rules in that chapter are substantively identical to the rules of Cboe BZX Options.[88] Rule 27.2

words, only non-acknowledged trades would cause the pre-defined limit to be reached.

[77] *See* MEMX Rule 21.16(a).

[78] *See* MEMX Rule 21.16(a).

[79] *See* MEMX Rule 21.16(e)(1).

[80] *See* Notice, *supra* note 3, at 28072. *See also* Amendment No. 1 at 35–36.

[81] *See* Notice, *supra* note 3, at 28072. *See also* Amendment No. 1 at 37–39.

[82] *See* MEMX Rule 21.17.

[83] *See* MEMX Rule 21.17(a)–(f).

[84] *See* Notice, *supra* note 3, at 28073. *See also* Amendment No. 1 at 40.

[85] *See* MEMX Rule 21.17(d).

[86] *See* MEMX Rule 22.11. *See also, e.g.,* MIAX Rule 520(b).

[87] *See* Notice, *supra* note 3, at 28073. *See also* Amendment No. 1 at 41.

[88] *See* Notice, *supra* note 3, at 28073. *See also* Amendment No. 1 at 42–43. *See also* MEMX Rules 27.1 (definitions), 27.2 (order protection), and 27.3 (locked and crossed markets).

prohibits trade-throughs and exempts ISOs from that prohibition, and also contains additional exceptions to the trade-through prohibition that track the exceptions under Regulation NMS or accommodate the unique aspects of the options market. Rule 27.3 sets forth the general prohibition against locking/crossing other eligible exchanges as well as certain enumerated exceptions that permit locked markets in limited circumstances.[89]

*Securities Traded on MEMX Options*

*General Listing Standards.* The listing standards for options traded on MEMX Options are set forth in Chapter 19 (Securities Traded on MEMX Options), and the listing standards for index options are described in Chapter 29 (Index Rules). The Exchange explains that these rules are substantively identical to those of Cboe BZX Options.[90] The Exchange also represents that it will join the Options Listings Procedures Plan, will list and trade options already listed on other options exchanges, and will gradually phase-in trading of option classes upon initial launch, beginning with a selection of actively traded options. The Exchange states that, initially, it does not plan to develop new options products or listing standards.[91]

*Conduct and Operational Rules for Options Members*

The Exchange proposes to adopt operational and member conducts rules for MEMX Options that are substantively identical to the rules of Cboe BZX Options regarding: (i) exercises and deliveries; [92] (ii) records, reports and audits; [93] (iii) minor rule violations; [94] (iv) doing business with the public; [95] and (v) margin.[96]

*National Market System*

Before commencing operations, MEMX Options will become a member of the Options Price Reporting Authority (''OPRA''), the Options Linkage Authority (''OLA''), the Options Regulatory Surveillance Authority (''ORSA''), and the Options Listing Procedures Plan (''OLPP'').[97]

*Regulation*

The Exchange represents that it will leverage many of the structures it established to operate a national securities exchange for trading equities in compliance with Section 6 of the Act.[98] Specifically, the Exchange represents that there will be three elements of that regulation: (i) the Exchange will join the existing options industry agreements pursuant to Section 17(d) of the Act prior to commencing operations; [99] (ii) the Exchange's Regulatory Services Agreement with FINRA will be amended as necessary prior to MEMX Options commencing operations and will govern many aspects of the regulation and discipline of members that participate in options trading, just as it does for equities regulation; [100] and (iii) the Exchange will perform options listing regulation, as well as authorize Options Members to trade on MEMX Options, and conduct surveillance of options trading as it does today for equities.[101]

Consistent with the Exchange's existing regulatory structure, the Exchange's Chief Regulatory Officer will have general supervision of the regulatory operations of MEMX Options, including responsibility for overseeing the surveillance, examination, and enforcement functions and for administering all regulatory services agreements applicable to MEMX Options.[102] Similarly, the Exchange's existing Regulatory Oversight Committee will be responsible for overseeing the adequacy and effectiveness of Exchange's regulatory and self-regulatory organization responsibilities, including those applicable to MEMX Options.[103]

The Exchange's existing rules governing members will apply to Options Members and their associated persons. The Exchange's existing rules provide that members, a term that includes Options Members, agree to be regulated by the Exchange as a condition of effecting securities transactions on the Exchange's trading facilities.[104] The Exchange's rules also permit it to sanction members, including Options Members, for violations of its rules and governing documents and of the federal securities laws by, among other things, expelling or suspending members, limiting members' activities, functions, or operations, fining or censuring members, or suspending or barring a person from being associated with a member.[105]

As it does with equities trading, the Exchange will perform automated surveillance of trading on MEMX Options for the purpose of maintaining a fair and orderly market at all times, and it will monitor MEMX Options to identify unusual trading patterns and determine whether particular trading activity requires further regulatory investigation.[106]

Additionally, the Exchange will oversee the process for determining and implementing trade halts, identifying and responding to unusual market conditions, and administering the Exchange's process for identifying and remediating ''obvious errors'' by and among its Options Members.[107] The Exchange explains that Chapter 20

[89] *See* MEMX Rule 27.3(b). Specifically, the exceptions to the general prohibition on locking and crossing occur when: (1) the locking or crossing quotation was displayed at a time when the Exchange was experiencing a failure, material delay, or malfunction of its systems or equipment; (2) the locking or crossing quotation was displayed at a time when there is a crossed market; or (3) the Options Member simultaneously routed an ISO to execute against the full displayed size of any locked or crossed Protected Bid or Protected Offer.

[90] *See* Notice, *supra* note 3, at 28073. *See also* Amendment No. 1 at 41–42. With respect to index options, the Exchange notes that it is not proposing to include references to any specific index options products or indices at this time and therefore has included a placeholder with the rule text ''(Reserved.)'' where such references would otherwise be. The Exchange represents that it would file a proposed rule change with the Commission with respect to such products if it decides to list and trade index options in the future. *See id.*

[91] *See* Notice, *supra* note 3, at 28073. *See also* Amendment No. 1 at 43.

[92] *See* MEMX Rules, Chapter 23. *See also* Cboe BZX Rules, Chapter XXIII.

[93] *See* MEMX Rules, Chapter 24. *See also* Cboe BZX Rules, Chapter XXIV.

[94] *See* MEMX Rules, Chapter 25. *See also* Cboe BZX Rules, Chapter XXV.

[95] *See* MEMX Rules, Chapter 26. *See also* Cboe BZX Rules, Chapter XXVI.

[96] *See* MEMX Rules, Chapter 27. *See also* Cboe BZX Rules, Chapter XXVII.

[97] *See* Notice, *supra* note 3, at 28073. *See also* Amendment No. 1 at 42.

[98] 15 U.S.C. 78f. *See* Notice, *supra* note 3, at 28074. *See also* Amendment No. 1 at 44.

[99] 15 U.S.C. 78q(d). The Exchange also explains that it is party to a bilateral Rule 17d–2 with FINRA, which will require minor modifications to accommodate the proposed launch of MEMX Options. The Exchange represents that it will seek to have the Commission declare effective those amendments to the bilateral Rule 17d–2 agreement prior to commencing operations for MEMX Options. *See also* Amendment No. 1 at 46.

[100] The Exchange represents that it has entered into a Regulatory Services Agreement with FINRA, pursuant to which FINRA personnel operate as agents for the Exchange in performing certain functions. As is the case with the Exchange's equities market, the Exchange represents that it will supervise FINRA personnel acting as agent and continue to bear ultimate regulatory responsibility for the MEMX Options Exchange. *See* Notice, *supra* note 3, at 28074. *See also* Amendment No. 1 at 46–47.

[101] *See* Notice, *supra* note 3, at 28074. *See also* Amendment No. 1 at 44–45.

[102] *See* Notice, *supra* note 3, at 28074. *See also* Amendment No. 1 at 47.

[103] *See* Notice, *supra* note 3, at 28074. *See also* Amendment No. 1 at 47.

[104] *See* MEMX Rule 2.2. *See also* Second Amended and Restated Limited Liability Company Agreement of MEMX LLC (May 19, 2020), Section 17.2 (providing the Exchange with disciplinary jurisdiction over its members).

[105] *See* MEMX Rule 2.2.

[106] *See* Notice, *supra* note 3, at 28074. *See also* Amendment No. 1 at 47.

[107] *See* Notice, *supra* note 3, at 28074. *See also* Amendment No. 1 at 47–48.

(Regulation of Trading on MEMX Options) regarding halts, unusual market conditions, extraordinary market volatility, obvious errors, audit trail, and rules regarding prohibited and permissible transfers of options positions off the Exchange are substantively identical to the rules of Cboe BZX Options.[108]

*Minor Rule Violation Plan*

The Commission approved the Exchange's Minor Rule Violation Plan (''MRVP'') in 2020.[109] The Exchange's MRVP specifies those uncontested minor rule violations with sanctions not exceeding $2,500 that would not be subject to the provisions of Rule 19d–1(c)(1) under the Act [110] requiring that an SRO promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.[111] The Exchange's MRVP includes the policies and procedures included in Rule 8.15 (Imposition of Fines for Minor Violation(s) of Rules) and in Rule 8.15, Interpretation and Policy .01.

In connection with MEMX Options, the Exchange is amending its MRVP and Exchange Rule 8.15, Interpretation and Policy .01, to include Rule 25.3 (Penalty for Minor Rule Violations). Rule 25.3 contains provisions addressing the following: (i) position limit and exercise limit violations; (ii) violations regarding the failure to accurately report position and account information; (iii) Market Maker quoting obligations; (iv) violations regarding expiring exercise declarations; (v) violations relating to the failure to respond to the Exchange's requests for the submission of trade data; and (vi) violations relating to noncompliance with the Consolidated Audit Trail Compliance Rule requirements. The Exchange further states that the rules included in proposed Rule 25.3 are the same as the rules included in the MRVPs of other options exchanges.[112]

The Exchange represents that, upon implementation, it will include the enumerated options trading rule violations in the Exchange's standard quarterly report of actions taken on minor rule violations under the MRVP.[113] The Exchange asserts that its amended MRVP is consistent with Sections 6(b)(1), 6(b)(5) and 6(b)(6) of the Act, which require, in part, that an exchange have the capacity to enforce compliance with, and provide appropriate discipline for, violations of the rules of the Commission and of the exchange.[114] In addition, the Exchange states that it will provide a fair procedure for the disciplining of members and associated persons, consistent with Section 6(b)(7) of the Act,[115] because amended Rule 8.15 will offer procedural rights to a person sanctioned for a violation listed in Rule 25.3.[116] The Exchange represents that it will continue to conduct surveillance with due diligence and make a determination based on its finding, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the MRVP or whether a violation requires a formal disciplinary action.[117]

*Amendments to Existing Exchange Rules*

In addition to the new rules for MEMX Options, the Exchange also proposes to amend certain of its existing rules in order to reflect the Exchange's proposed operation of MEMX Options. First, the Exchange is amending paragraph (d) of Interpretations and Policies .01 to Rule 2.5 (Restrictions), which generally requires each member to register at least two Principals with the Exchange subject to certain exceptions described therein, to provide that such paragraph (d) shall not apply to a member that solely conducts business on the Exchange as an Options Member, however, Options Members must comply with the registration requirements set forth in proposed Rule 17.2(g).[118] In connection with this change, the Exchange also is amending paragraph (i) of Interpretations and Policies .01 to Rule 2.5 to include Options Principal as a registration category and to set forth the Exchange's qualification requirements for an Options Principal, which the Exchange states are the same as those for an Options Principal on Cboe BZX Options.[119]

The Exchange also is deleting the word ''equities'' in the first sentence of Rule 2.7 (Revocation of Membership or Association with a Member), which currently provides that members or associated persons of members may effect approved equities securities transactions on the Exchange's trading facilities only so long as they possess all the qualifications set forth in the Exchange Rules.

The Exchange proposes to modify Rule 2.11(a)(6), which states that MEMX Execution Services shall maintain an error account for the purpose of addressing positions that are the result of an execution or executions that are not clearly erroneous under Rule 11.15 and result from a technical or systems issue at MEMX Execution Services, the Exchange, a routing destination, or a non-affiliate third-party routing broker that affects one or more orders (''Error Positions''). The proposed change to Rule 2.11(a)(6) adds a reference to the comparable provision in Rule 20.6 that governs review and resolution of options transactions that may qualify as obvious errors.

## III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[120] In particular, the Commission finds that the proposed rule change is consistent with, among others, Sections 6(b)(1),[121] 6(b)(5),[122]

[108] *See also* Amendment No. 1 at 47–48.

[109] *See* Securities Exchange Act Release No. 89836 (September 11, 2020), 85 FR 58081 (September 17, 2020) (Order Declaring Effective a Minor Rule Violation Plan) (''MRVP Order'').

[110] 17 CFR 240.19d–1(c)(1).

[111] The Commission adopted amendments to paragraph (c) of Rule 19d–1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to such a plan filed with and declared effective by the Commission will not be considered ''final'' for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

[112] *See* Notice, *supra* note 3, at 28075. *See also* Amendment No. 1 at 49.

[113] *See* Notice, *supra* note 3, at 28075. *See also* Amendment No. 1 at 49–50. The Exchange states that the quarterly report currently includes: the Exchange's internal file number for the case, the name of the individual and/or organization, the nature of the violation, the specific rule provision violated, the fine imposed, the number of times the rule violation has occurred, and the date of disposition. *See id.*

[114] 15 U.S.C. 78f(b)(1), 78f(b)(5) and 78f(b)(6). *See also* Notice, *supra* note 3, at 28075. *See also* Amendment No. 1 at 49–50.

[115] 15 U.S.C. 78f(b)(7).

[116] *See* Notice, *supra* note 3, at 28075. *See also* Amendment No. 1 at 50.

[117] *See* Notice, *supra* note 3, at 28075. *See also* Amendment No. 1 at 50.

[118] The Exchange notes that proposed MEMX Rule 17.2(g), which provides that every Options Member shall have at least one Options Principal and sets forth the Exchange's Options Principal registration requirements, is identical to Cboe BZX Rule 17.2(g). *See* Notice, *supra* note 3, at 28075. *See also* Amendment No. 1 at 53.

[119] *See* Notice, *supra* note 3, at 28075. *See also* Amendment No. 1 at 53.

[120] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[121] 15 U.S.C. 78f(b)(1).

[122] 15 U.S.C. 78f(b)(5).

and 6(b)(8) [123] of the Act. Section 6(b)(1) of the Act requires that an exchange be so organized and have the capacity to be able to carry out the purposes of the Act and to comply and enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. Section 6(b)(5) of the Act requires that the rules of a national securities exchange be designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Section 6(b)(8) of the Act requires that the rules of a national securities exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

As detailed above, MEMX Options' proposed rules are substantially similar to those of other exchanges, especially Cboe BZX, though the Exchange is not proposing to adopt certain optional features offered by other exchanges so that its trading platform at launch will, as the Exchange described it, have ''a simplified suite of conventional order types and functionality that is designed to provide for an efficient, robust, and transparent order matching process.'' [124] While some of these features may be available on other option exchanges, such as price improvement auctions, directed market makers, facilitation mechanisms, and price-sliding mechanisms, those features are optional and supplementary to the core exchange matching engine functionality, and they are not necessary for the Commission to find that the rules governing MEMX Options are consistent with the Act.

*Exchange Members*

As described above, only Options Members, and their Sponsored Participants,[125] will be permitted to transact on the System. The Exchange also proposes to adopt rules governing member operations and member conduct, all of which are substantively identical to the rules of other exchanges, including Cboe BZX. Those rules include recordkeeping and reporting requirements,[126] discipline,[127] margin requirements,[128] and requirements applicable to doing business with the public.[129]

The Commission finds that the rules applicable to qualification, registration, member operations, and use of MEMX Options, which are substantially similar to those of other options exchanges, are consistent with the Act, including Sections 6(b)(1), (2), and (6) thereof, in that they provide the Exchange with the capacity to regulate access to and conduct on MEMX Options and enforce the federal securities laws among persons using its facilities, provide that registered broker-dealers can become members and have access to MEMX Options, and ensure that Options Members and their associated persons can be appropriately disciplined for violations of the Act, the rules and regulations thereunder, and Exchange rules.

With respect to Market Maker members, the Commission finds that the proposed Market Maker qualification requirements, which also are substantially similar to those of other options exchanges, are consistent with the Act. The Commission further finds that the Options Market Maker participation requirements are consistent with the Act. Market makers receive certain benefits for carrying out their responsibilities. For example, a broker-dealer or other lender may extend ''good faith'' credit to a member of a national securities exchange or registered broker-dealer to finance its activities as a market maker or specialist.[130] In addition, market makers are exempted from the prohibition in Section 11(a) of the Act.[131] The Commission believes that a market maker must have sufficient affirmative obligations, including the obligation to hold itself out as willing to buy and sell options for its own account on a regular or continuous basis, to justify this favorable treatment. The Commission believes that the MEMX Options Market Maker participation requirements are consistent with the Act and are substantially similar to the participation requirements of other options exchanges that the Commission has previously approved.

*MEMX Options Market Structure and Trading Operations*

The functionalities and features of MEMX Options' market structure and trading system are based on functionalities and features currently used and previously approved for other options exchanges. Among other things, the rules are reasonably designed to provide for a simple, orderly opening process for an exchange that only trades multiply listed options, as well as an orderly re-opening process following the conclusion of a trading halt. Further, the rules provide for the electronic display and execution of orders in traditional price/time priority. MEMX Options will utilize only two order types (limit orders and market orders) and offer a limited suite of order handling instructions, all of which are well-established in both the equities and options markets. These proposed execution priority rules and order types are consistent with the Act, in particular Section 6(b)(5) of the Act, in that, among other things, they are designed to promote just and equitable principles of trade and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

MEMX also is requiring a one-second exposure period in order to execute as principal orders represented as agent, which is the same standard required by other exchanges. This exposure requirement should facilitate the prompt execution of orders while continuing to provide members with an opportunity to compete for exposed bids and offers.

MEMX listing standards for options traded on MEMX Options are substantively identical to those currently utilized by other exchanges. MEMX will join the Options Listings Procedures Plan and will list and trade options already listed on other options exchanges. The Commission finds that the Exchange's proposed listing standards are consistent with the Act, including Section 6(b)(5), in that they are designed to protect investors and the public interest and promote just and equitable principles of trade. As explained below, MEMX's operation of MEMX Options is conditioned on MEMX joining and participating in the OLPP. The Exchange has represented that it will join the OLPP and will become an exchange member of OCC.

Further, MEMX proposes operational rules that are substantively identical to the rules of other options exchanges, such as Cboe BZX, including rules

[123] 15 U.S.C. 78f(b)(8).

[124] *See* Notice, *supra* note 3, at 28064. *See also* Amendment No. 1 at 4.

[125] *See* MEMX Rule 1.5(dd) (defining ''Sponsored Participant'' to mean ''a person which has entered into a sponsorship arrangement with a Sponsoring Member pursuant to Rule 11.3'').

[126] *See* MEMX Chapter 24 (Records, Reports and Audits).

[127] *See* MEMX Chapter 25 (Discipline and Summary Suspensions).

[128] *See* MEMX Chapter 28 (Margin Requirements).

[129] *See* MEMX Chapter 26 (Doing Business with the Public).

[130] *See* 12 CFR 221.5 and 12 CFR 220.7; *see also* 17 CFR 240.15c3–1(a)(6) (capital requirements for market makers).

[131] 15 U.S.C. 78k(a)(1).

applicable to exercise and deliveries.[132] Those rules adopt the standard requirements applicable to exercise notices and applicable cut-off times for submission of exercise-related notices, the assignment of exercise notices, and delivery and payment requirements. The Commission finds that these rules are consistent with the Act, including Section 6(b)(5), in that they promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

And, as described above, in those cases where MEMX Options' proposed rules vary from current functionality on other options exchanges, many of those variations are because MEMX proposes a more streamlined system and is not proposing to introduce those optional features.

As such, the Commission finds that the proposed functionalities and features of MEMX Options' overall structure and trading operations are consistent with the Act, and in particular, with Section 6(b)(5) of the Act, which requires an exchange's rules, among other things, be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

*Options Order Protection, Locked/Crossed Market Plan, and Outbound Routing*

The MEMX Options rules are designed to comply with applicable federal securities laws and regulations and the obligations of the Linkage Plan. Specifically, the rules are designed to ensure that an order is not executed at a price that would trade through another options exchange. In this regard, the Commission notes that MEMX Options is required under Rule 608(c) of Regulation NMS [133] to comply with and enforce compliance by its members with the Linkage Plan, including the requirement to avoid trading through better prices available on other markets. Any order designated by an Options Member as routable will be routed by MEMX in compliance with applicable trade-through restrictions, and any order entered with a price that would lock or cross a Protected Quotation that is not eligible for either routing or the price adjust process in Rule 21.1(i) will be cancelled. The Commission finds these order protection rules to be consistent with the Act. Further, in light of the protections discussed above that apply to the optional use of outbound routing services offered through MEMX Execution Services, which currently apply to the Exchange's equities trading facility, as well as the back-up optional routing services through an unaffiliated routing broker, the Commission finds the routing rules to be consistent with the Act.

Before commencing operations, MEMX represents that it will become a participant in the Linkage Plan.[134] To meet their regulatory responsibilities under the Linkage Plan, including the requirement to avoid trading through better-priced protected quotations available on other markets, other options exchanges that are Linkage Plan participants must have sufficient notice of new protected quotations, as well as all necessary information (such as final technical specifications). Therefore, the Commission believes that it would be a reasonable policy and procedure under the Linkage Plan for industry participants to begin treating MEMX Options' best bid and best offer as a protected quotation within the later of 60 days after the date of this order or such date as MEMX Options begins operation.

*Risk Monitoring and Protection*

As discussed above, MEMX Options will offer Users an optional mechanism to establish certain risk control parameters and limits. The ''passive'' functionality is substantially similar to that offered on Cboe BZX Options, except that MEMX Options will permit Users to track risk parameters across a customized group of orders and will permit Users to choose to suspend, rather than cancel or reject, resting interest when a risk limit has been reached.[135] The proposed ''active'' functionality is novel, as Cboe BZX Options rules do presently offer similar functionality. As described above, in the ''active'' version, a User can effectively interact with the Risk Monitor Mechanism to decrement the counting program as executions occur.

In addition to the Risk Monitor Mechanism, the Exchange will offer additional price protection mechanisms and risk controls. These controls are substantially similar to those offered on Cboe BZX, with slight modifications to align with the Exchange's proposed streamlined market opening procedures and fewer available order types and instructions on MEMX Options. Also, whereas the drill-through price protection mechanism offered on Cboe BZX executes an incoming order to a determined ''Drill-Through Price'' and then displays the remainder of the order on Cboe BZX Options at that price for a brief period of time, the Exchange proposes to cancel the remainder of an incoming order after executing the order.

The Commission believes that the proposed risk protections for MEMX Options are reasonably designed to provide liquidity providers with protections to help them manage risk and efficiently use capital when trading options. These protections are in addition to, and do not take the place of, members' required market access controls, vigilant oversight of trading and algorithms, and overall risk management. For example, these mechanisms are intended to provide market makers and other liquidity providers with optional supplemental tools as an additional layer of protection to assist them in managing risk and utilizing available capital in leveraged options securities. To the extent they achieve that intended objective, liquidity providers should be able to provide additional liquidity to the market at potentially improved prices, thus benefitting investors.

While most of these protections are substantively similar to those available on other options markets, some of the differences discussed above are designed to offer market participants additional flexibility when using the Risk Monitor Mechanism in a manner consistent with the functionality and scope of protections that the Risk Monitor Mechanism provides. Accordingly, the Commission finds that the proposed risk controls for MEMX Options are consistent with the Act in that they are designed to, among other things, promote just and equitable principles of trade and protect investors and the public interest.

*Participation in Multiparty Options—Related Plans*

The Exchange represents that it will become a participant in the various applicable multiparty plans for options

[132] *See* MEMX Chapter 23 (Exercises and Deliveries).

[133] *See* 17 CFR 242.608(c).

[134] *See* Notice, *supra* note 3, at 28073. *See also* Amendment No. 1 at 41.

[135] *See* Notice, *supra* note 3, at 28072. *See also* Amendment No. 1 at 34–36.

trading. Specifically, the Exchange represents that MEMX Options will become a member of OPRA, OLA, ORSA, and OLPP before commencing operations. Doing so will integrate MEMX Options into the national market system for standardized listed options.

*Regulation*

The Exchange represents that it will leverage the structures it currently maintains to operate and oversee its equities trading facility, which involve the following three elements: (i) the Exchange will join the existing options industry agreements pursuant to Section 17(d) of the Act,[136] as it did with respect to equities; (ii) the Exchange's Regulatory Services Agreement with FINRA will be amended to govern many aspects of the regulation and discipline of Options Members, just as it does for equities; [137] and (iii) the Exchange will perform options listing regulation, as well as authorize Options Members to trade on MEMX Options, and conduct surveillance of options trading as it does today for equities. Furthermore, MEMX proposes to amend its Minor Rule Violation Plan to encompass MEMX Options in a manner that is substantially similar to and consistent with the analogous rules and plans on other options exchanges.

Also, as explained above, consistent with the Exchange's existing regulatory structure, the Exchange's Chief Regulatory Officer will have general supervision of the regulatory operations of MEMX Options, including responsibility for overseeing the surveillance, examination, and enforcement functions and for administering all regulatory services agreements applicable to MEMX Options. Similarly, the Exchange's existing Regulatory Oversight Committee will be responsible for overseeing the adequacy and effectiveness of Exchange's regulatory and self-regulatory organization responsibilities, including those applicable to MEMX Options.

As it does with equities, the Exchange will perform automated surveillance of trading on MEMX Options for the purpose of maintaining a fair and orderly market at all times. As it does with its equities trading facility, the Exchange will monitor MEMX Options to identify unusual trading patterns and determine whether particular trading activity requires further regulatory investigation by FINRA.

In addition, the Exchange will oversee the process for determining and implementing trade halts, identifying and responding to unusual market conditions, and administering the Exchange's process for identifying and remediating ''obvious errors'' by and among its Options Members. The proposed rules in Chapter 20 (Regulation of Trading on MEMX Options) regarding halts, unusual market conditions, extraordinary market volatility, obvious errors, and audit trail are substantively identical to the rules of Cboe BZX Options.

Based on the foregoing, the Commission finds that the Exchange's proposed rules and regulatory structure with respect to MEMX Options are consistent with the requirements of the Act, in particular with Section 6(b)(1) of the Act, which requires an exchange to be so organized and have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its members and persons associated with its members, with the Act and the rules and regulations thereunder, and the rules of the Exchange, and with Sections 6(b)(6) and 6(b)(7) of the Act, which require an Exchange to provide fair procedures for the disciplining of members and persons associated with members. The Commission further believes that it is consistent with the Act to allow the Exchange to contract with FINRA to perform functions relating to the regulation and discipline of members and the regulation of MEMX Options.[138] These functions are fundamental elements to a regulatory program and constitute core self-regulatory functions. The Commission believes that FINRA has the expertise and experience to perform these functions on behalf of the Exchange.[139]

The Commission finds that the amended MRVP is consistent with Sections 6(b)(1), 6(b)(5), and 6(b)(6) of the Act, which require, in part, that an exchange have the capacity to enforce compliance with, and provide appropriate discipline for, violations of the rules of the Exchange and the federal securities laws. As existing MEMX Rule 8.15 will continue to offer procedural rights to a person sanctioned for a violation listed in proposed MEMX Options Rule 25.3, the Commission believes that the Exchange's rules provide a fair procedure for the disciplining of members and associated persons, consistent with Section 6(b)(7) of the Act.[140] The Commission also finds that the MRVP changes are consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,[141] because they should strengthen the Exchange's ability to carry out its oversight and enforcement responsibilities as an SRO in cases where full disciplinary proceedings are unsuitable in view of the minor nature of the particular violation.

In approving the proposed change to the Exchange's MRVP, the Commission in no way minimizes the importance of compliance with the Exchange's rules and all other rules subject to the imposition of fines under the Exchange's MRVP. The Commission believes that the violation of any SRO rules, as well as the federal securities laws, is a serious matter. However, the Exchange's MRVP provides a reasonable means of addressing rule violations that do not rise to the level of requiring formal disciplinary proceedings, while providing flexibility in handling certain violations. The Commission expects that the Exchange will continue to conduct surveillance with due diligence and make a determination based on its findings, on a case-by-case basis, whether a fine of more or less than the recommended amount is appropriate for a violation under the Exchange's MRVP or whether a violation requires a formal disciplinary action.

[136] *See* 15 U.S.C. 78q(d) and 17 CFR 240.17d–2. There are three 17d–2 plans that apply to options: the Options-Related Sales Practice Plan (File No. S7–966), the Options-Related Market Surveillance Plan (File No. 4–551), and the Regulation NMS Plan (File No. 4–566). MEMX already is a member of the Regulation NMS Plan.

[137] Importantly, the Commission notes that unless relieved by the Commission of its responsibility pursuant to Rule 17d–2, the Exchange bears the responsibility for its self-regulatory obligations and primary liability for self-regulatory failures, not the SRO retained to perform regulatory functions on the Exchange's behalf. *See* Section 17(d)(1) of the Act and Rule 17d–2 thereunder (15 U.S.C. 78q(d)(1) and 17 CFR 240.17d–2). In performing these functions as agent for MEMX, however, FINRA may nonetheless bear liability for causing or aiding and abetting the failure of the Exchange to perform its regulatory functions. Accordingly, although FINRA will not act on its own behalf under its SRO responsibilities in carrying out these regulatory services for the Exchange relating to the operation of MEMX Options, FINRA also may have secondary liability if, for example, the Commission finds the contracted functions are being performed so inadequately as to cause a violation of the federal securities laws by the Exchange. *See, e.g.,* Securities Exchange Act Release No. 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (''Nasdaq Exchange Registration Order'').

[138] *See, e.g.,* Regulation of Exchanges and Alternative Trading Systems, Securities Exchange Act Release No. 40760 (December 8, 1998), 63 FR 70844 (December 22, 1998). *See also, e.g.,* Securities Exchange Act Release Nos. 50122 (July 29, 2004), 69 FR 47962 (August 6, 2004) (SR–Amex–2004–32) (approving rule that allowed Amex to contract with another SRO for regulatory services).

[139] The Commission notes that the RSA is not before the Commission and, therefore, the Commission is not acting on it.

[140] 15 U.S.C. 78f(b)(7).

[141] 17 CFR 240.19d–1(c)(2).

*Section 11(a) of the Act*

Section 11(a)(1) of the Act[142] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, ''covered accounts'') unless an exception applies. Rule 11a2–2(T) under the Act,[143] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution; [144] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or an associated person has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule.

In a letter to the Commission, the Exchange requests that the Commission concur with the Exchange's conclusion that Options Members that enter orders into the System satisfy the requirements of Rule 11a2–2(T).[145] For the reasons set forth below, the Commission believes that Options Members entering orders into the System could satisfy the requirements of Rule 11a2–2(T).

The Rule's first requirement is that orders for covered accounts be transmitted from off the exchange floor. In the context of automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[146] MEMX has represented that MEMX Options does not have a physical trading floor, and the MEMX Options trading system will receive orders from members electronically through remote terminals or computer-to-computer interfaces.[147] The Commission believes that the MEMX Options trading system satisfies this off-floor transmission requirement.

Second, the Rule requires that the member and any associated person not participate in the execution of its order after the order has been transmitted. MEMX represented that at no time following the submission of an order is an Options Member or an associated person of the Options Member able to acquire control or influence over the result or timing of the order's execution.[148] According to the Exchange, the execution of a member's order is determined solely by what quotes and orders are present in the System at the time the member submits the order, and the order priority based on the MEMX Options rules.[149] Accordingly, the Commission believes that an Options Member and its associated persons do not participate in the execution of an order submitted to the MEMX Options System.[150]

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that this requirement is satisfied when automated exchange facilities, such as the MEMX Options trading system are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[151] The Exchange has represented that the design of the MEMX Options trading system ensures that no Options Member has any special or unique trading advantages in the handling of its orders after transmitting its orders to the Exchange.[152] Based on the Exchange's representation, the Commission believes that the MEMX Options trading system satisfies this requirement.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.[153] MEMX

[142] 15 U.S.C. 78k(a)(1).

[143] 17 CFR 240.11a2–2(T).

[144] This prohibition also applies to associated persons. The member may, however, participate in clearing and settling the transaction.

[145] *See* Letter from Anders Franzon, General Counsel, MEMX, to Vanessa Countryman, Secretary, Commission, dated August 8, 2022 (''MEMX 11(a) Letter'').

[146] *See, e.g.,* Securities Exchange Act Release Nos. 85828 (May 10, 2019), 84 FR 21841 (May 15, 2019) (registration of Long-Term Stock Exchange); 75760 (August 7, 2015) 80 FR 48600 (August 13, 2015) (SR–EDGX–2015–18); 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550, 3553 (January 23, 2006) (File No. 10–131) (granting the exchange registration of Nasdaq Stock Market, Inc.); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (''1979 Release'').

[147] *See* MEMX 11(a) Letter, *supra* note 145, at 5–6.

[148] *See* MEMX 11(a) Letter, *supra* note 145, at 6–7. MEMX notes that a member may cancel or modify the order, or modify the instructions for executing the order, after the order has been transmitted, provided that such cancellations or modifications are transmitted from off an exchange floor. *See id.* at 6. The Commission has stated that the non-participation requirement is satisfied under such circumstances so long as such modifications or cancellations are also transmitted from off the floor. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (''1978 Release'') (stating that the ''non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor'').

[149] *See* MEMX 11(a) Letter, *supra* note 145, at 2. The Commission notes that MEMX proposes rules for the registration, obligations, and operation of market makers on MEMX Options. MEMX has represented that market makers, if any, will submit quotes in the form of orders in their assigned symbols. *See id.* at n. 4.

[150] *See, e.g.,* Securities Exchange Act Release No. 58375 (August 18, 2008), 73 FR 49498, 49505 (August 21, 2008) (File No. 10–182) (order granting the registration of BATS Exchange) (''Bats Order'') and 61698 (March 12, 2010), 75 FR 13151, 13164 (March 18, 2010) (File Nos. 10–194 and 10–196) (order approving DirectEdge exchanges) (''DirectEdge Order'').

[151] *See, e.g.,* Bats Order, *supra* note 150, at 49505 and DirectEdge Order, *supra* note 150, at 13164. In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release, *supra* note 146.

[152] *See* MEMX 11(a) Letter, *supra* note 145, at 7.

[153] *See* Bats Order, *supra* note 150, at 49505 and DirectEdge Order, *supra* note 150, at 13164. In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the

Continued

Options Members trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption.[154]

## IV. Exemption From Section 19(b) of the Act With Regard to Cboe, NYSE, and FINRA Rules Incorporated by Reference

The Exchange proposes to incorporate by reference as MEMX Options Rules certain rules of Cboe Exchange (''Cboe''), the New York Stock Exchange (''NYSE''), and FINRA.[155] Thus, for certain MEMX Options rules, Exchange members will comply with a MEMX Options rule by complying with the Cboe, NYSE, or FINRA rule referenced. In connection with its proposal to incorporate Cboe, NYSE, and FINRA rules by reference, the Exchange requests, pursuant to Rule 240.0–12 under the Act,[156] an exemption under Section 36 of the Act from the rule filing requirements of Section 19(b) of the Act for changes to those MEMX Options rules that are effected solely by virtue of a change to a cross-referenced Cboe, NYSE, or FINRA rule.[157] The Exchange proposes to incorporate by reference categories of rules (rather than individual rules within a category) that are not trading rules. The Exchange agrees to provide written notice to Options Member prior to the launch of MEMX Options of the specific Cboe, NYSE, and FINRA rules that it is incorporating by reference.[158] In addition, the Exchange will notify Options Members whenever Cboe, NYSE, or FINRA proposes a change to a cross-referenced Cboe, NYSE, or FINRA rule.[159]

Using its authority under Section 36 of the Act, the Commission previously exempted certain SROs from the requirement to file proposed rule changes under Section 19(b) of the Act.[160] Each such exempt SRO agreed to be governed by the incorporated rules, as amended from time to time, but is not required to file a separate proposed rule change with the Commission each time the SRO whose rules are incorporated by reference seeks to modify its rules. In addition, each SRO incorporated by reference only regulatory rules (*e.g.,* margin, suitability, arbitration), not trading rules, and incorporated by reference whole categories of rules (*i.e.,* did not ''cherry-pick'' certain individual rules within a category). Each exempt SRO had procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO in order to provide its members with notice of a proposed rule change that affects their interests, so that they would have an opportunity to comment on it.

The Commission is granting the Exchange's request for exemption, pursuant to Section 36 of the Act, from the rule filing requirements of Section 19(b) of the Act with respect to the rules that the Exchange proposes to incorporate by reference into MEMX Options Rules. The Commission believes that this exemption is appropriate in the public interest and consistent with the protection of investors because it will promote more efficient use of Commission and SRO resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO. Consequently, the Commission grants the Exchange's exemption request for MEMX Options. This exemption is conditioned upon the Exchange providing written notice to Options Members whenever Cboe, NYSE, or FINRA proposes to change a rule that MEMX Options has incorporated by reference.

## V. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MEMX–2022–10 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–MEMX–2022–10. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of this filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from

account a statement setting forth the total amount of compensation retained by the member or any associated person thereof in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release, *supra* note 148 (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

[154] *See* MEMX 11(a) Letter, *supra* note 145, at 3. The Exchange represented that it will advise its membership through the issuance of a Regulatory Circular that those members trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the rule's exemption. *See id.*

[155] Specifically, MEMX Rule 26.16 proposes to incorporate by reference the applicable rules of FINRA with respect to Communications with Public Customers; MEMX Rule 28.3 proposes to incorporate by reference initial and maintenance margin requirements of either Cboe or NYSE; MEMX Rule 29.5 proposes to incorporate by reference the applicable rules of Cboe with respect to position limits for broad based index options; and MEMX Rule 29.7 proposes to incorporate by reference the applicable rules of Cboe with respect to position limits for narrow-based and micro-narrow based index options traded on MEMX Options and also on Cboe.

[156] 17 CFR 240.0–12.

[157] *See* Amendment No. 1 at 51–53.

[158] *See* Amendment No. 1 at 52.

[159] The Exchange represents that it will provide such notice through a posting on the same website location where the Exchange will post its own rule filings pursuant to Rule 19b–4(l) under Act, within the time frame required by that rule. The website posting will include a link to the location on the Cboe, NYSE, or FINRA website where the proposed rule change is posted. *See id.* at n. 38.

[160] *See* Securities Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004) (granting application for exemptions pursuant to Section 36(a) under the Act by the American Stock Exchange LLC, the International Securities Exchange, Inc., the Municipal Securities Rulemaking Board, the Pacific Exchange, Inc., the Philadelphia Stock Exchange, Inc., and the Boston Stock Exchange, Inc.). *See also, e.g.,* Securities Exchange Act Release Nos.); 75760 (August 7, 2015) 80 FR 48600 (August 13, 2015) (SR–EDGX–2015–18) (approving the operations of EDGX Options Exchange, which included exemptive relief pursuant to Section 36(a) under the Act); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (order approving SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080, which included exemptive relief pursuant to Section 36(a) under the Act) and 53128 (January 13, 2006).

comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MEMX–2022–10 and should be submitted on or before September 2, 2022.

## VI. Accelerated Approval of Proposed Rule Change

The Commission finds good cause to approve the proposed rule change prior to the 30th day after the date of publication of Amendment No. 1 in the **Federal Register**. Amendment No.1 does not include any material changes to the proposed rules for MEMX Options or the descriptions of those rules in the original filing. In Amendment No. 1, the Exchange, among other items, provides additional detail about how some of the proposed MEMX Options rules will function, revises other existing MEMX rules to reference and accommodate MEMX Options, provides representations about how MEMX will inform Users about certain parameters or variables set forth in the MEMX Options Rules, requests exemptive relief under Section 36 of the Act from Section 19 of the Act for rules incorporated by reference, and makes other minor technical changes to the filing.

The Commission finds that Amendment No.1 raises no novel regulatory issues and is reasonably designed to perfect the mechanism of a free and open market and the national market system, protect investors and the public interest, and not be unfairly discriminatory, or impose an unnecessary or inappropriate burden on competition. The Amendment makes minor and non-material clarifying and conforming changes and makes additional representations that each provide more clarity on the application of the MEMX Options rules and the commencement of operation of MEMX Options. Accordingly, pursuant to Section 19(b)(2) of the Act,[161] the Commission finds good cause to approve the proposed rule change on an accelerated basis.

## VII. Conclusion

*It is therefore ordered,* pursuant to Section 19(b)(2) of the Act,[162] that the proposed rule change (SR–MEMX–2022–10), as modified by Amendment No. 1, be, and it hereby is, approved on an accelerated basis.

Although the Commission's approval of the proposed rule change is final, and the proposed rules are therefore effective, it is further ordered that the operation of MEMX Options is conditioned on the satisfaction of the requirements below:

A. *Participation in Plans Relating to Options Trading.* MEMX must join: (i) the OPRA Plan; (ii) the OLPP; (iii) the Linkage Plan; and (iv) the Plan of the Options Regulatory Surveillance Authority.

B. *RSA and Rule 17d–2 Agreements.* MEMX must ensure that all necessary changes are made to its Regulatory Services Agreement and bilateral Rule 17d–2 agreement with FINRA, and it must be a party to the multiparty Rule 17d–2 agreements concerning options-related sales practice matters and options-related market surveillance.

C. *Participation in the Options Clearing Corporation.* MEMX must join the Options Clearing Corporation.

D. *Participation in the Intermarket Surveillance Group.* MEMX must be a member of the Intermarket Surveillance Group.

It is further ordered, pursuant to Section 36 of the Act,[163] that MEMX shall be exempted from the rule filing requirements of Section 19(b) of the Act [164] with respect to the Cboe, FINRA, and NYSE rules that MEMX proposes to incorporate by reference in MEMX Rules 26.16, 28.3, 29.5, and 29.7, subject to the conditions specified in this Order.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[165]

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2022–17320 Filed 8–11–22; 8:45 am]

**BILLING CODE 8011–01–P**

[161] 15 U.S.C. 78s(b)(2).

[162] *Id.*

[163] *See* 15 U.S.C. 78mm.

[164] 15 U.S.C. 78s(b).

[165] 17 CFR 200.30–3(a)(12) and 17 CFR 200.30–3(a)(76).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–95444; File No. SR–CboeBYX–2022–018]**

## Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

August 8, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 1, 2022 Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') proposes to amend its fee schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/byx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes to amend its Fee Schedule by (i) introducing a Non-Displayed Add Volume Tier under Footnote 1 (Add/Remove Volume Tiers) and (ii) amending the criteria of the Step-Up Tier under Footnote 2. The Exchange proposes to implement these changes effective August 1, 2022.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 registered equities exchanges, as well as a number of alternative trading systems and other off-exchange venues that do not have similar self-regulatory responsibilities under the Securities

Exchange Act of 1934 (the ''Act''), to which market participants may direct their order flow. Based on publicly available information, no single registered equities exchange has more than 16% of the market share.[3] Thus, in such a low-concentrated and highly competitive market, no single equities exchange possesses significant pricing power in the execution of order flow. The Exchange in particular operates a ''Taker-Maker'' model whereby it pays credits to members that remove liquidity and assesses fees to those that add liquidity. The Exchange's Fee Schedule sets forth the standard rebates and rates applied per share for orders that remove and provide liquidity, respectively. Particularly, for securities at or above $1.00, the Exchange provides a standard rebate of $0.00020 per share for orders that remove liquidity and assesses a fee of $0.00200 per share for orders that add liquidity. For orders priced below $1.00, the Exchange does not assess a fee or provide a rebate for orders that add liquidity and assesses a fee of 0.10% of total dollar value for orders that remove liquidity. Additionally, in response to the competitive environment, the Exchange also offers tiered pricing, which provides Members with opportunities to qualify for higher rebates or lower fees where certain volume criteria and thresholds are met. Tiered pricing provides an incremental incentive for Members to strive for higher tier levels, which provides increasingly higher benefits or discounts for satisfying more stringent criteria.

Add/Remove Volume Tiers

Currently, the Exchange offers various Add/Remove Volume Tiers under footnote 1 of the Fee Schedule, which offer various enhanced rebates and reduced fees for reaching certain, incrementally more challenging volume-based thresholds. These tiers are available to Members whose orders yield fee codes B,[4] V,[5] and Y,[6] [sic]where a Member meets certain required volume-based criteria. The Exchange now proposes to adopt a Non-Displayed Add Volume Tier under Footnote 1, which will provide a reduced fee of $0.00050 for orders yielding fee codes MM[7] or AH[8]. Currently, orders yielding fee codes MM or AH pay a fee of $0.00100 for orders in securities priced at or above $1.00. Under the proposed Non-Displayed Add Volume Tier, Members with an eligible order type (*e.g.,* orders yielding fee codes MM or AH) that have a combined Auction ADV[9] and ADAV[10] greater than or equal to 5,000,000 would be eligible for the reduced fee.

The proposed Non-Displayed Add Volume Tier is designed to incentivize overall order flow, particularly by offering a reduced fee for non-displayed orders that achieve the volume-based criteria. The Exchange also believes that the proposed fee associated with the proposed Non-Displayed Add Volume Tier is commensurate with the tier's criteria. Further, the proposed Non-Displayed Add Volume Tier will provide non-displayed liquidity providing Members on the Exchange incentives to contribute to a deeper, more liquid market, which in turn, provides additional execution opportunities for all Members. The Exchange believes that this benefits all Members by enhancing overall market quality and contributing towards a robust and well-balanced market ecosystem. The Exchange notes that the proposed Non-Displayed Add Volume Tier will be available to all Members.

Step-Up Tier

The Exchange also proposes to revise the criteria of the Step-Up Tier under Footnote 2 of the Fee Schedule. Currently, the Step-Up Tier offers a reduced fee of $0.0014 to Members whose orders yield fee codes, B,[11] V,[12] Y,[13] and AD[14] and increase their relative add-volume order flow each month over a predetermined baseline as well as add liquidity over an established threshold. Specifically, the current Step-Up Tier provides a reduced fee for eligible orders (*e.g.,* those orders yielding fee codes B, V, Y, and AD) where a Member (i) has a combined Step-Up Auction ADV[15] and Step-Up ADAV[16] from June 2021 greater than or equal to 0.05% of TCV[17] or Member has a combined Step-Up Auction ADV and Step-Up ADAV from June 2021 greater than or equal to 2,000,000; and (ii) Member has a combined Auction ADV and ADAV greater than or equal to 0.25% of TCV. The Exchange now proposes to lower the reduced fee to $0.0012 (instead of $0.0014) and amend the criteria to read as follows:

- Member has a combined Step-Up Auction ADV and Step-Up ADAV from April 2022 (as compared to June 2021) greater than or equal to 3,000,000 (as compared to 2,000,000); and Member has a combined Auction ADV and ADAV greater than or equal to 0.25% of TCV.

The Exchange believes the proposed change continues to incentivize increased overall order flow to the Exchange, albeit with slightly modified criteria, which may contribute to a deeper, more liquid market to the benefit of all market participants by creating a more robust and well-balanced market ecosystem. Additionally, the Exchange believes the proposed lower reduced fee of $0.0012 is commensurate with the revised criteria as Members are still required to increase the amount of liquidity they provide on the Exchange, thereby contributing to a deeper and more liquid market, which benefits all market participants. Furthermore, the proposed Step-Up Tier continues to be available to all Members and provide Members an opportunity to receive a reduced fee, albeit using a slightly modified criteria.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[18] Specifically, the

[3] See Cboe Global Markets, U.S. Equities Market Volume Summary, Month-to-Date (July 26, 2022), available at *https://markets.cboe.com/us/equities/market_statistics/.*

[4] Orders yielding Fee Code B are displayed orders that add liquidity to BYX (Tape B) and are assessed a standard fee of $0.00200.

[5] Orders yielding Fee Code V are displayed orders that add liquidity to BYX (Tape A) and are assessed a standard fee of $0.00200.

[6] Orders yielding Fee Code Y are displayed orders that add liquidity to BYX (Tape C) and are assessed a standard fee of $0.00200.

[7] Orders yielding Fee Code MM are non-displayed orders that add liquidity using Mid-Point Peg. Mid-Point Peg is an order type defined in Exchange Rule 11.9(c)(9) as ''[a] limit order that after entry into the System, the price of the order is automatically adjusted by the System in response to changes in the NBBO to be pegged to the mid-point of the NBBO, or, alternatively, pegged to the less aggressive of the midpoint of the NBBO or one minimum price variation inside the same side of the NBBO as the order.''

[8] Orders yielding Fee Code AH are non-displayed orders that execute in a Periodic Auction.

[9] ''Auction ADV'' means average daily auction volume calculated as the number of shares executed in an auction per day. ADV means average daily volume calculated as the number of shares added or removed, combined, per day, and is calculated on a monthly basis.

[10] ''ADAV'' means average daily volume calculated as the number of shares added per day and is calculated on a monthly basis.

[11] *Supra* note 4.

[12] *Supra* note 5.

[13] *Supra* note 6.

[14] Orders yielding Fee Code AD are displayed orders that execute in a Periodic Auction.

[15] ''Step-Up Auction ADV'' means Auction ADV in the relevant baseline month subtracted from current Auction ADV.

[16] ''Step-Up ADAV'' means ADAV in the relevant baseline month subtracted from current ADAV.

[17] ''TCV'' means total consolidated volume calculated as the volume reported by all exchange and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply.

[18] 15 U.S.C. 78f(b).

Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [19] 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) [20] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed Non-Displayed Add Volume Tier and the proposed changes to the Step-Up Tier are reasonable, equitable and not unfairly discriminatory because each tier, as proposed, will be available to all Members and provide Members an opportunity to receive a reduced fee. As noted above, the Exchange operates in a highly competitive market. The Exchange is only one of 16 equity venues to which market participants may direct their order flow, and it represents a small percentage of the overall market. It is also only one of several taker-maker exchanges. Competing equity exchanges offer similar rates and tiered pricing structures to that of the Exchange, including schedules of rebates and fees that apply based upon members achieving certain volume thresholds. Specifically, the Exchange notes that relative volume-based incentives and discounts have been widely adopted by exchanges,[21] including the Exchange,[22] and are reasonable, equitable and non-discriminatory because they are open to all members on an equal basis and provide additional benefits or discounts that are reasonably related to (i) the value to an exchange's market quality and (ii) associated higher levels of market activity, such as higher levels or liquidity provision and/or growth patterns.

In particular, the Exchange believes the proposed Non-Displayed Add Volume Tier is reasonable because it provides an additional opportunity for Members to receive a discounted rate by reaching the proposed threshold by means of liquidity adding non-displayed orders. The Exchange believes that adopting a Non-Displayed Add Volume Tier based on a Member's non-displayed liquidity adding orders will encourage non-displayed liquidity providing Members to provide for a deeper, more liquid market, and, as a result, increased execution opportunities at improved price levels and, thus, overall order flow. The Exchange similarly believes that the proposed revised Step-Up Tier is reasonable because it continues to provide a discounted rate (albeit at a lower amount), which is commensurate with the revised criteria. The Exchange believes that removing the first requirement from the first prong of criteria while simultaneously updating the baseline month from June 2021 to April 2022 and increasing the growth amount continues to provide a reasonable means to achieve a reduced fee while contributing towards a deeper and more liquid market. The Exchange believes that the proposed Non-Displayed Add Volume Tier and proposed revised Step-Up Tier continue to benefit all Members by contributing towards a robust and well-balanced market ecosystem. Increased overall order flow benefits all investors by deepening the Exchange's liquidity pool, providing 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 the proposed Non-Displayed Add Volume Tier and the proposed revisions to the Step-Up Tier represent an equitable allocation of fees and are not unfairly discriminatory because all Members continue to be eligible for those tiers, would have the opportunity to meet a tier's criteria, and would receive the proposed reduced fee if such criteria is met. Without having a view of activity on other market and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would definitely result in any Members qualifying for the proposed tiers. While the Exchange has no way of predicting with certainty how the proposed tiers will impact Member activity, the Exchange anticipates that at least one Member will be able to satisfy the criteria for the proposed Non-Displayed Add Volume Tier and ten Members will be able to satisfy the proposed criteria for the Step-Up Tier. The Exchange also notes that the proposed changes will not adversely impact any Member's ability to qualify for other reduced fee or enhanced rebate tiers. Should a Member not meet the proposed criteria under the proposed or modified tier, the Member will merely not receive that corresponding reduced fee. The Exchange believes that the proposed addition of the Non-Displayed Add Volume Tier and the proposed changes to the Step-Up Tier will benefit all market participants by incentivizing additional hidden liquidity and, thus, deeper more liquid markets as well as increased execution opportunities. Particularly, the proposals are designed to incentivize liquidity, which further contributes to a deeper, more liquid market and provide even more execution opportunities for active market participants at improved prices. This overall increase in activity deepens the Exchange's liquidity pool, offers additional cost savings, supports the quality of price discovery, promotes market transparency and improves market quality, for all investors.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, as discussed above, the Exchange believes that the proposed change would encourage the submission of additional order flow to a public exchange, thereby promoting market depth, execution incentives and enhanced execution opportunities, as well as price discovery and transparency for all Members. As a result, the Exchange believes that the proposed changes further the Commission's goal in adopting Regulation NMS of fostering competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.''

The Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposed tier changes will apply to all Members equally, in that all Members will be eligible for the Non-Displayed Add Volume Tier and all Members will continue to be eligible for the Step-Up Tier. In addition, all Members will have a reasonable opportunity to meet the tiers' criteria and will receive the reduced fee on their qualifying orders if such criteria are met. The Exchange does not believe the proposed changes burden competition, but rather, enhance competition as they

[19] 15 U.S.C. 78f(b)(5).

[20] *Id.*

[21] *See* Cboe BZX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

[22] *See* Cboe BYX Equities Fee Schedule, Footnote 1, Add/Remove Volume Tiers.

are intended to increase the competitiveness of BYX by amending existing pricing incentives in order to attract order flow and incentivize participants to increase their participation on the Exchange, providing for additional execution opportunities for market participants and improved price transparency. Greater overall order flow, trading opportunities, and pricing transparency benefit all market participants on the Exchange by enhancing market quality and continuing to encourage Members to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Next, the Exchange believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues that they may participate on and direct their order flow, including other equities exchanges, off-exchange venues, and alternative trading systems. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single equities exchange has more than 16% of the market share.[23] Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [24] The fact that this market is competitive has also long been recognized by the courts. In *NetCoalition* v. *Securities and Exchange Commission*, the D.C. Circuit states as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''.[25]

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

The Exchange neither solicited nor received comments on the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [26] and paragraph (f) of Rule 19b–4 [27] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBYX–2022–018 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeBYX–2022–018. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBYX–2022–018, and should be submitted on or before September 2, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2022–17319 Filed 8–11–22; 8:45 am]

**BILLING CODE 8011–01–P**

[23] *Supra* note 3.

[24] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[25] NetCoalition v. SEC, 615 F.3d 525, 539 (DC Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca-2006–21)).

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f).

[28] 17 CFR 200.30–3(a)(12).

## SURFACE TRANSPORTATION BOARD

**[Docket No. FD 36618]**

### KS Railroad, a Division of KINKISHARYO International, L.L.C.—Operation Exemption—in Piscataway, N.J.

KS Railroad (KS), a noncarrier and division of KINKISHARYO International, L.L.C. (KII), has filed a verified notice of exemption pursuant to 49 CFR 1150.31 to operate on 1,173 feet, three inches of railroad track inside an existing industrial facility owned by KII in Piscataway, N.J. (the Line). The Line has no mileposts.

According to the verified notice, the Line is currently operated by KII as

private track. KII has formed a new division, KS, to operate as a common carrier railroad to perform rail service for KII and other shippers that would locate at the facility. KS will acquire control over track at the facility and then operate the Line as a common carrier rail line and the remaining track as yard and industrial track. KS also anticipates entering into an interchange agreement with Consolidated Rail Corporation.

KS certifies that its annual projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III carrier and will not exceed $5 million. KS states that no interchange commitments are being imposed on KS's operation.

The transaction may be consummated on or after August 27, 2022, the effective date of the exemption (30 days after the verified notice was filed).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than August 19, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36618, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on KS's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

According to KS, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: August 5, 2022.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

**Brendetta Jones,**

*Clearance Clerk.*

[FR Doc. 2022–17342 Filed 8–11–22; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Public Notice of Airport Improvement Program Property Release; Spokane International Airport, Spokane, Washington

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

**ACTION:** Notice of request to release airport improvement program property.

**SUMMARY:** Notice is being given that the FAA is considering a request from the City and County of Spokane, Washington to waive the Airport Improvement Program property requirements for approximately 108 acres of airport property located at Spokane International Airport, Spokane, Washington.

**DATES:** Comments are due within 30 days of the date of the publication of this notice in the **Federal Register**. Emailed comments can be provided to Ms. Mandi M. Lesauis, Program Specialist, Seattle Airports District Office, *mandi.lesauis@faa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Mandi M. Lesauis, Program Specialist, Seattle Airports District Office, *mandi.lesauis@faa.gov,* (206) 231–4140.

**SUPPLEMENTARY INFORMATION:** The subject properties are located in the northeast section of the airport. This release will allow the City and County of Spokane to sell 108 acres of Parcel 1 to developers for storage warehouses, transportation/logistics warehouses with minor office spaces for light industrial or commercial business. There will be proceeds generated from the proposed release of this property for capital improvements at the airport. The City and County of Spokane, Washington will receive not less than fair market value for the property and the revenue generated from the sale will be used for airport purposes. It has been determined through study that the subject partial parcel will not be needed for aeronautical purposes.

*Authority:* Title 49.U.S.C. Section 47153(c).

Issued in Des Moines, Washington, on August 8, 2022.

**Warren D. Ferrell,**

*Manager, Seattle Airports District Office.*

[FR Doc. 2022–17326 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket Number FRA–2010–0034]**

### Port Authority Trans-Hudson's Request To Amend Its Positive Train Control Safety Plan and Positive Train Control System

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This document provides the public with notice that, on August 2, 2022, the Port Authority Trans-Hudson (PATH) submitted a request for amendment (RFA) to its FRA-approved Positive Train Control Safety Plan (PTCSP). As this RFA may involve a request for FRA's approval of proposed material modifications to an FRA-certified positive train control (PTC) system, FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTCSP.

**DATES:** FRA will consider comments received by September 1, 2022. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

**ADDRESSES:**

*Comments:* Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0034. For convenience, all active PTC dockets are hyperlinked on FRA's website at *https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports.* All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

**FOR FURTHER INFORMATION CONTACT:** Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

**SUPPLEMENTARY INFORMATION:** In general, Title 49 United States Code (U.S.C.) section 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making

certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal and train control system. Accordingly, this notice informs the public that, on August 2, 2022, PATH submitted an RFA to its PTCSP for its Communication Based Train Control System (CBTC) and that RFA is available in Docket No. FRA–2010–0034.

Interested parties are invited to comment on PATH's RFA to its PTCSP by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCSP at FRA's sole discretion.

**Privacy Act Notice**

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy*. See *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov*. To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

**Carolyn R. Hayward-Williams,**

*Director, Office of Railroad Systems and Technology.*

[FR Doc. 2022–17311 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

**[Docket Number FRA–2010–0048]**

### Southern California Regional Rail Authority's Request To Amend Its Positive Train Control Safety Plan and Positive Train Control System

**AGENCY:** Federal Railroad Administration (FRA), Department of Transportation (DOT).

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** This document provides the public with notice that, on July 29, 2022, the Southern California Regional Rail Authority (Metrolink) submitted a request for amendment (RFA) to its FRA-approved Positive Train Control Safety Plan (PTCSP). As this RFA may involve a request for FRA's approval of proposed material modifications to an FRA-certified positive train control (PTC) system, FRA is publishing this notice and inviting public comment on the railroad's RFA to its PTCSP.

**DATES:** FRA will consider comments received by September 1, 2022. FRA may consider comments received after that date to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

**ADDRESSES:**

*Comments:* Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0048. For convenience, all active PTC dockets are hyperlinked on FRA's website at *https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports*. All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

**FOR FURTHER INFORMATION CONTACT:** Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov*.

**SUPPLEMENTARY INFORMATION:** In general, title 49 United States Code (U.S.C.) section 20157(h) requires FRA to certify that a host railroad's PTC system complies with title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP under 49 CFR 236.1021.

Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal and train control system. Accordingly, this notice informs the public that, on July 29, 2022, Metrolink submitted an RFA to its PTCSP for its Interoperable Electronic Train Management Systems (I–ETMS) and that RFA is available in Docket No. FRA–2010–0048.

Interested parties are invited to comment on Metrolink's RFA to its PTCSP by submitting written comments or data. During FRA's review of this railroad's RFA, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying implementation of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1021; *see also* 49 CFR 236.1011(e). Under 49 CFR 236.1021, FRA maintains the authority to approve, approve with conditions, or deny a railroad's RFA to its PTCSP at FRA's sole discretion.

**Privacy Act Notice**

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy*. See *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov*. To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

**Carolyn R. Hayward-Williams,**

*Director, Office of Railroad Systems and Technology.*

[FR Doc. 2022–17317 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### Pipeline and Hazardous Materials Safety Administration

**[Docket No. PHMSA–2022–0051; Notice No. 2022–08]**

### Hazardous Materials: Notification of Compliance Procedures and Proposed Termination of Certain Jet Perforating Guns Approvals

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

**ACTION:** Notice.

**SUMMARY:** PHMSA is issuing this notice to serve process and inform all persons who currently hold explosive approvals for certain jet perforating guns of the process necessary for maintaining, modifying, upgrading/up-classing, or terminating these approvals.

**FOR FURTHER INFORMATION CONTACT:** Ms. Harpreet Singh, Chief, Energetic Materials Branch, Sciences and Engineering Division, Office of Hazardous Materials Safety, (202) 366–4535, PHMSA, 1200 New Jersey Ave. SE, Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

## A. Background

In November 2020, PHMSA issued the HM–219C [1] final rule, which amended the Hazardous Materials Regulations in response to 24 petitions for rulemaking submitted by the regulated community between February 2015 and March 2018. As part of one of those petitions, PHMSA incorporated by reference a new Jet Perforating Gun (JPG) standard developed by the Association of Energy Service Companies (AESC) and the Institute of Makers of Explosives (IME) titled ''*Guide to Obtaining DOT Approval of Jet Perforating Guns using AESC/IME Perforating Gun Specifications, Version 02, Effective Date: September 1, 2017*'' (AESC/IME JPG 2017 Standard).[2] The final rule had an effective date of December 28, 2020, and a delayed compliance date of November 26, 2021.

In the HM–219C rulemaking, PHMSA noted the major differences between the AESC/IME JPG 2017 standard and the previous 2008 standard, such as:

- The 1.4D (UN0494) JPG classifications have been removed.
- The 1.1D (UN0124) JPG classifications are issued with a note that the approved 1.1D perforating gun system can be transported as 1.4D in accordance with Special Provision (SP) 114 (49 CFR 172.102). This SP allows for JPGs classified as 1.1D explosives to be reclassified as 1.4D explosives for transportation if certain conditions are met.
- The 1.1D (NA0124) and 1.4D (NA0494) ''with detonator'' JPG classifications have been removed. Such JPG systems are now subject to testing in accordance with 49 CFR 173.56(b) prior to approval.
- The JPG Kodiak™ system has been added, but SP 114 does not apply to this JPG.

Since publication of the HM–219C final rule in November 2020, PHMSA has identified approximately 773 current explosive (EX) approvals that are assigned to one of the four identification numbers—UN0124, UN0494, NA0124, and NA0494—impacted by the AESC/IME JPG 2017 standard.

Today's notice is primarily intended to serve as a notice of proposed termination in accordance with 49 CFR 105.35(a)(3) and 107.713(b)(1) and (c), and to reach all EX approval holders who have not yet submitted a request to maintain, modify, upgrade/up-class, or terminate their current approval.

## B. Processing Existing Approvals by UN/NA Number

PHMSA is providing the following options to current holders of an EX approval affected by this requirement. Affected EX approval-holders may take the appropriate actions as explained in the table below.

TABLE 1—OPTIONS TO COMPLY WITH THE AESC/IME JPG 2017 STANDARD

| JPG classification | Adjustment | Comments and suggested action/options |
|---|---|---|
| 1.1D (UN0124) except Kodiak™ type JPG. | None, unless a note authorizing 1.4D classification under SP 114 is desired (SP 114 applies whether noted on the EX letter or not). | 1. Submit request to modify EX approval to add note allowing the JPG to be shipped as 1.4D under SP 114. (49 CFR § 172.102).<br>2. Email modification request to *explo@dot.gov* or submit to the explosives portal *https://portal.phmsa.dot.gov/PHMSAPortal2*. |
| 1.1D (UN0124) only Kodiak™ type JPG. | Modify the EX by requesting the note be added that SP 114 does not apply to a Kodiak JPG. | 1. Submit a request to modify an EX approval to add note not permitting 1.4D under SP 114. (49 CFR § 172.102) for the Kodiak version of the JPG.<br>2. Email modification request to *explo@dot.gov* or submit to the explosives portal *https://portal.phmsa.dot.gov/PHMSAPortal2*. |
| 1.4D (UN0494) (holder also has 1.1D (UN0124) approval for the same JPG). | Surrender EX and request termination, or PHMSA will terminate. | 1. No longer needed since 1.1D can be shipped as 1.4D under SP 114.<br>2. Email termination request to *explo@dot.gov* or submit to the explosives portal *https://portal.phmsa.dot.gov/PHMSAPortal2*. |
| 1.4D (UN0494) (holder does not have 1.1D classification (UN0124) approval for the same JPG). | Modify EX by requesting upgrade/up-class to 1.1D (UN0124), or PHMSA will terminate. | 1. No longer needed since 1.1D can be shipped as 1.4D under Special Provision 114. (49 CFR 172.102).<br>2. Email modification request to *explo@dot.gov* or submit to the explosives portal *https://portal.phmsa.dot.gov/PHMSAPortal2*. |
| 1.1D with detonator (NA0124) (holder does not have an explosives lab report in accordance with 49 CFR 173.56(b)). | Surrender EX and request termination or PHMSA will terminate or request to upgrade/up-class to UN0124. | 1. NA0124 is no longer authorized without an explosives lab report in accordance with 173.56(b).<br>2. Email termination or upgrade/up-class request to *explo@dot.gov* or submit to the explosives portal *https://portal.phmsa.dot.gov/PHMSAPortal2*. |

[1] 85 FR 75680 (November 25, 2020).

[2] *See https://www.ime.org/uploads/public/PerfGunClassification(2017.09.01).pdf.*

TABLE 1—OPTIONS TO COMPLY WITH THE AESC/IME JPG 2017 STANDARD—Continued

| JPG classification | Adjustment | Comments and suggested action/options |
|---|---|---|
| 1.1D with detonator (NA0124) (holder has an explosives lab report in accordance with 49 CFR 173.56(b)) and has not shared the lab report with PHMSA. | Modification request to retain the 1.1D (NA0124) classification, or PHMSA will terminate. | 1. Submit modification request and an explosives lab report to PHMSA.<br>2. Email modification request to *explo@dot.gov* or submit to the explosives portal *https://portal.phmsa.dot.gov/PHMSAPortal2*. |
| 1.4D with detonator (NA0494) (holder does not have an explosives lab report in accordance with 49 CFR 173.56(b)). | Surrender EX and request termination or PHMSA will terminate or request to upgrade/up-class to UN0124. | 1. NA0494 is no longer authorized without an explosives lab report in accordance with 173.56(b).<br>2. Email termination or upgrade/up-class request to *explo@dot.gov* or submit to the explosives portal *https://portal.phmsa.dot.gov/PHMSAPortal2*. |
| 1.4D with detonator (NA0494) (holder has an explosives lab report in accordance with 49 CFR 173.56(b)) and has not shared the lab report with PHMSA. | Modification request to retain the 1.4D (NA0494) classification, or PHMSA will terminate. | 1. Submit modification request and an explosives lab report to PHMSA.<br>2. Email modification request to *explo@dot.gov* or submit to the explosives portal *https://portal.phmsa.dot.gov/PHMSAPortal2*. |

The approximately 773 EX approvals are held by over 100 separate companies. Because of the AESC/IME JPG 2017 Standard, existing approvals for the four affected UN/NA ID numbers—UN0124, UN0494, NA0124, and NA0494—must be modified in accordance with 49 CFR 107.713(a)(1) to reflect whether EX approval holders have met the requirements of the standard. *UN0124 non-Kodiak™ approvals do not require modification as SP 114 applies to them even if it is not specifically listed in the notes section of the approval (49 CFR 172.102).* UN0124 Kodiak™ approvals do require a modification of the approval adding the note that SP 114 does not apply to the Kodiak™ JPG system.

EX approval holders have until September 12, 2022, to provide a written response to PHMSA either to request that PHMSA maintain, modify, upgrade/upclass, or terminate their approval(s) or to otherwise show cause as to why their approval(s) should not be terminated, in accordance with 49 CFR 107.713(c)(1). Approvals for which PHMSA does not receive a request by September 12, 2022, are subject to the following:

TABLE 2—PROPOSED TERMINATION ACTION

| JPG classification | PHMSA action | Basis/comments |
|---|---|---|
| UN0124, 1.1D—non-Kodiak JPG system | None | SP 114 applies whether noted on the EX letter or not. |
| UN0124, 1.1D Kodiak JPG system | PHMSA will revise and add a note that SP 114 does not apply to the Kodiak system. | Add a note stating that SP 114 does not apply. |
| UN0494, 1.4D, for which the holder has an approval for the same JPG device as UN0124, 1.1D. | Termination in accordance with this **Federal Register** notice. | Approval not needed in accordance with SP 114 as it applies. |
| UN0494, 1.4D for which the holder does not have an approval for the same JPG device as UN0124, 1.1D. | Termination in accordance with this **Federal Register** notice. | Holder failed to request an up-class to UN0124, 1.1D as required by this notice. |
| UN0494, 1.4D for which the holder has an explosives lab report recommending UN0494 and the lab report is on file with PHMSA. | None | Holder submitted the explosives lab report required by 49 CFR 173.67 in accordance 173.56(b) and received an explosives classification approval. |
| NA0124, 1.1D JPG with detonator for which the holder does not have an explosives lab report recommending NA0124. | Termination in accordance with this **Federal Register** notice. | Holder failed to submit an explosives lab report required by 49 CFR 173.67 in accordance 173.56(b). |
| NA0124, 1.1D JPG with detonator for which the holder has an explosives lab report recommending NA0124 but has not submitted the lab report to PHMSA. | Termination in accordance with this **Federal Register** notice. | Holder failed to submit the explosives lab report required by 49 CFR 173.67 in accordance with 173.56(b). |
| NA0494, 1.4D JPG with detonator for which the holder does not have an explosives lab report recommending NA0494. | Termination in accordance with this **Federal Register** notice. | Holder failed to submit the explosives lab report required by 49 CFR 173.67 in accordance with 173.56(b). |
| NA0494, 1.4D JPG with detonator for which the holder has an explosives lab report recommending NA0494 but has not submitted the lab report to PHMSA. | Termination in accordance with this **Federal Register** notice. | Holder failed to submit the explosives lab report required by 49 CFR 173.67 in accordance with 173.56(b). |

Requests may be submitted to PHMSA via email at *explo@dot.gov* or the PHMSA EX Portal at *https://portal.phmsa.dot.gov/PHMSAPortal2*.

The names of EX approval holders who have not yet submitted a request to maintain, modify, upgrade/up-class, or terminate their current approval(s) are provided in Table 3. This table accurately reflects the population of holders as of July 1, 2022.

TABLE 3—APPROVAL HOLDERS

| EX No. | Company | UN/NA No. |
|---|---|---|
| EX2012090377 | Accurate Logging & Perforating, Inc | UN0494 |
| EX2012090378 | Accurate Logging & Perforating, Inc | UN0494 |
| EX2012090379 | Accurate Logging & Perforating, Inc | UN0494 |
| EX2012090380 | Accurate Logging & Perforating, Inc | UN0494 |
| EX2012090381 | Accurate Logging & Perforating, Inc | UN0494 |
| EX2012090382 | Accurate Logging & Perforating, Inc | UN0494 |
| EX2012090391 | Accurate Logging & Perforating, Inc | NA0494 |
| EX2012090392 | Accurate Logging & Perforating, Inc | NA0494 |
| EX2012090393 | Accurate Logging & Perforating, Inc | NA0494 |
| EX1996110208 | Allegheny Wireline Service c/o Owen Compliance Ser | NA0124 |
| EX1996110209 | Allegheny Wireline Service c/o Owen Compliance Ser | NA0494 |
| EX2011110994 | Allied Wireline Services | NA0494 |
| EX2011110995 | Allied Wireline Services | UN0494 |
| EX2011110996 | Allied Wireline Services | NA0494 |
| EX2011110997 | Allied Wireline Services | UN0124 |
| EX2011111036 | Allied Wireline Services | UN0494 |
| EX2011111037 | Allied Wireline Services | NA0494 |
| EX2011111038 | Allied Wireline Services | UN0494 |
| EX2011111039 | Allied Wireline Services | NA0494 |
| EX2011111040 | Allied Wireline Services | UN0494 |
| EX2015090686 | Anderson Perforating Service, LLC | UN0494 |
| EX2015090687 | Anderson Perforating Service, LLC | UN0494 |
| EX2015090688 | Anderson Perforating Service, LLC | UN0494 |
| EX2015090689 | Anderson Perforating Service, LLC | UN0494 |
| EX2015090690 | Anderson Perforating Service, LLC | UN0494 |
| EX2015090691 | Anderson Perforating Service, LLC | UN0494 |
| EX2015090692 | Anderson Perforating Service, LLC | UN0494 |
| EX2010071138 | ANLINE, Inc | UN0494 |
| EX2010071139 | ANLINE, Inc | UN0494 |
| EX2010071140 | ANLINE, Inc | UN0494 |
| EX2009080176 | Apollo Perforators Inc | NA0494 |
| EX2009080177 | Apollo Perforators Inc | UN0494 |
| EX2009080178 | Apollo Perforators Inc | NA0494 |
| EX2017040169 | AR Wireline LLC | UN0494 |
| EX2017040170 | AR Wireline LLC | UN0494 |
| EX2017040171 | AR Wireline LLC | UN0494 |
| EX2017040172 | AR Wireline LLC | UN0494 |
| EX2017040173 | AR Wireline LLC | UN0494 |
| EX2017040174 | AR Wireline LLC | UN0494 |
| EX2010100093 | Ark-La-Tex Wireline Services | UN0494 |
| EX2010100094 | Ark-La-Tex Wireline Services | UN0494 |
| EX2010100095 | Ark-La-Tex Wireline Services | UN0494 |
| EX2010100099 | Ark-La-Tex Wireline Services | UN0494 |
| EX2009030177 | Austin Explosives Company | NA0494 |
| EX2009035458 | Austin Explosives Company | UN0124 |
| EX2009035459 | Austin Explosives Company | UN0494 |
| EX2009035464 | Austin Explosives Company | UN0124 |
| EX2009035465 | Austin Explosives Company | UN0494 |
| EX2009035466 | Austin Explosives Company | UN0494 |
| EX2009035468 | Austin Explosives Company | UN0494 |
| EX2009035469 | Austin Explosives Company | NA0124 |
| EX2009035473 | Austin Explosives Company | NA0124 |
| EX2009035474 | Austin Explosives Company | NA0494 |
| EX2009035476 | Austin Explosives Company | NA0494 |
| EX2009035477 | Austin Explosives Company | NA0124 |
| EX2009035478 | Austin Explosives Company | NA0494 |
| EX2009035479 | Austin Explosives Company | NA0124 |
| EX2009035542 | Austin Explosives Company | UN0494 |
| EX2009035543 | Austin Explosives Company | UN0124 |
| EX2009035544 | Austin Explosives Company | UN0494 |
| EX2009035546 | Austin Explosives Company | UN0494 |
| EX2009035547 | Austin Explosives Company | UN0124 |
| EX2009035548 | Austin Explosives Company | UN0494 |
| EX2009035549 | Austin Explosives Company | UN0124 |
| EX2009035550 | Austin Explosives Company | UN0494 |
| EX2009035557 | Austin Explosives Company | NA0124 |
| EX2009035558 | Austin Explosives Company | NA0494 |
| EX2009035559 | Austin Explosives Company | NA0124 |
| EX2009035560 | Austin Explosives Company | NA0494 |
| EX2009035561 | Austin Explosives Company | NA0124 |
| EX2009035562 | Austin Explosives Company | NA0494 |
| EX2009035563 | Austin Explosives Company | NA0124 |

TABLE 3—APPROVAL HOLDERS—Continued

| EX No. | Company | UN/NA No. |
|---|---|---|
| EX2009035564 | Austin Explosives Company | NA0494 |
| EX2009060085 | Austin Explosives Company | NA0494 |
| EX2009060330 | Austin Explosives Company | UN0124 |
| EX2009060334 | Austin Explosives Company | UN0124 |
| EX2009060335 | Austin Explosives Company | UN0494 |
| EX2009060336 | Austin Explosives Company | UN0124 |
| EX2009060337 | Austin Explosives Company | UN0494 |
| EX2009060338 | Austin Explosives Company | UN0124 |
| EX2009060339 | Austin Explosives Company | UN0494 |
| EX2009060340 | Austin Explosives Company | NA0124 |
| EX2009060341 | Austin Explosives Company | NA0494 |
| EX2009060342 | Austin Explosives Company | NA0124 |
| EX2009060343 | Austin Explosives Company | NA0494 |
| EX2009060344 | Austin Explosives Company | NA0124 |
| EX2009060345 | Austin Explosives Company | NA0494 |
| EX2009060346 | Austin Explosives Company | NA0124 |
| EX2009060347 | Austin Explosives Company | NA0494 |
| EX2010030285 | Austin Explosives Company | UN0124 |
| EX2013080350 | AXIS American X-Ray & Inspection Services, Inc | UN0494 |
| EX2013080352 | AXIS American X-Ray & Inspection Services, Inc | UN0494 |
| EX2013080353 | AXIS American X-Ray & Inspection Services, Inc | UN0494 |
| EX1993090157 | Baker Hughes INTEQ (Owen Compliance Services, Inc) | UN0124 |
| EX2009060302 | Blohowiak Wireline Co., Inc | NA0494 |
| EX2009060303 | Blohowiak Wireline Co., Inc | NA0494 |
| EX2009060304 | Blohowiak Wireline Co., Inc | NA0494 |
| EX2009060308 | Blohowiak Wireline Co., Inc | UN0494 |
| EX2009060309 | Blohowiak Wireline Co., Inc | UN0494 |
| EX2009060310 | Blohowiak Wireline Co., Inc | UN0494 |
| EX2009060311 | Blohowiak Wireline Co., Inc | UN0494 |
| EX2009060312 | Blohowiak Wireline Co., Inc | UN0494 |
| EX2013110494 | Blue Jet Inc | NA0494 |
| EX2013110496 | Blue Jet Inc | UN0494 |
| EX2013110497 | Blue Jet Inc | NA0494 |
| EX2013110498 | Blue Jet Inc | UN0124 |
| EX2013110499 | Blue Jet Inc | NA0494 |
| EX2013110500 | Blue Jet Inc | UN0124 |
| EX2013120526 | Blue Jet Inc | UN0494 |
| EX2013120527 | Blue Jet Inc | UN0494 |
| EX2016100206 | Boots Smith Completion Services, LLC | UN0494 |
| EX2016100214 | Boots Smith Completion Services, LLC | UN0494 |
| EX2016100215 | Boots Smith Completion Services, LLC | UN0494 |
| EX2011040402 | Cajun Wireline | UN0124 |
| EX2011040405 | Cajun Wireline | UN0124 |
| EX2011040409 | Cajun Wireline | UN0124 |
| EX2011040415 | Cajun Wireline | UN0124 |
| EX2011040424 | Cajun Wireline | NA0124 |
| EX2011040426 | Cajun Wireline | UN0124 |
| EX2011040655 | Cajun Wireline | NA0494 |
| EX2011040656 | Cajun Wireline | NA0494 |
| EX2011040665 | Cajun Wireline | NA0494 |
| EX2014060069 | Cajun Wireline | UN0494 |
| EX2014090976 | Cajun Wireline | UN0494 |
| EX2012111533 | Capitan Corporation | UN0494 |
| EX2012111536 | Capitan Corporation | UN0494 |
| EX2012111537 | Capitan Corporation | UN0494 |
| EX2016100355 | Capitan Corporation | NA0494 |
| EX2016100357 | Capitan Corporation | NA0124 |
| EX2014060695 | Cased Hole Well Services, LLC | UN0124 |
| EX2014060698 | Cased Hole Well Services, LLC | UN0494 |
| EX2014060699 | Cased Hole Well Services, LLC | UN0494 |
| EX2014060700 | Cased Hole Well Services, LLC | UN0494 |
| EX2014060701 | Cased Hole Well Services, LLC | UN0494 |
| EX2014060702 | Cased Hole Well Services, LLC | UN0494 |
| EX2014060703 | Cased Hole Well Services, LLC | UN0494 |
| EX2014060704 | Cased Hole Well Services, LLC | UN0494 |
| EX2016090936 | CEEE LLC dba Integrity Wireline LLC | UN0494 |
| EX2016090937 | CEEE LLC dba Integrity Wireline LLC | UN0494 |
| EX2016090938 | CEEE LLC dba Integrity Wireline LLC | UN0494 |
| EX2015121645 | Clutch Energy Services, LLC | UN0124 |
| EX2015121646 | Clutch Energy Services, LLC | UN0494 |
| EX2015121647 | Clutch Energy Services, LLC | NA0124 |
| EX2015121648 | Clutch Energy Services, LLC | NA0494 |

TABLE 3—APPROVAL HOLDERS—Continued

| EX No. | Company | UN/NA No. |
|---|---|---|
| EX2015121649 | Clutch Energy Services, LLC | UN0124 |
| EX2015121650 | Clutch Energy Services, LLC | UN0494 |
| EX2015121651 | Clutch Energy Services, LLC | NA0124 |
| EX2015121652 | Clutch Energy Services, LLC | NA0494 |
| EX2011040360 | Cogco Inc | NA0124 |
| EX2009050187 | Cutters Wireline Service, Inc | NA0494 |
| EX2009050188 | Cutters Wireline Service, Inc | NA0124 |
| EX2009050191 | Cutters Wireline Service, Inc | NA0494 |
| EX2009050192 | Cutters Wireline Service, Inc | NA0124 |
| EX2009050195 | Cutters Wireline Service, Inc | NA0494 |
| EX2009050196 | Cutters Wireline Service, Inc | NA0124 |
| EX2009050196 | Cutters Wireline Service, Inc | NA0494 |
| EX2009050199 | Cutters Wireline Service, Inc | NA0494 |
| EX2009050203 | Cutters Wireline Service, Inc | NA0494 |
| EX2009050204 | Cutters Wireline Service, Inc | NA0124 |
| EX2009050207 | Cutters Wireline Service, Inc | NA0494 |
| EX2009050208 | Cutters Wireline Service, Inc | NA0124 |
| EX2011040357 | D & S Wireline | UN0494 |
| EX2011040365 | D & S Wireline | NA0494 |
| EX2011040371 | D & S Wireline | UN0494 |
| EX2011040398 | D & S Wireline | UN0494 |
| EX2011040399 | D & S Wireline | UN0494 |
| EX2011040400 | D & S Wireline | NA0494 |
| EX2011040401 | D & S Wireline | UN0494 |
| EX2011040403 | D & S Wireline | UN0494 |
| EX2011040406 | D & S Wireline | NA0494 |
| EX2011040411 | D & S Wireline | NA0494 |
| EX2011040414 | D & S Wireline | UN0494 |
| EX2011040416 | D & S Wireline | NA0494 |
| EX2011040417 | D & S Wireline | NA0494 |
| EX2012100821 | Dialog Wireline Services, LLC | UN0124 |
| EX2009100047 | E&P Wireline Services, LLC | UN0494 |
| EX2009100049 | E&P Wireline Services, LLC | UN0494 |
| EX2015010747 | Epic Wireline Services, Inc | UN0494 |
| EX2015010748 | Epic Wireline Services, Inc | UN0124 |
| EX2015010749 | Epic Wireline Services, Inc | UN0494 |
| EX2015010750 | Epic Wireline Services, Inc | UN0124 |
| EX2015010751 | Epic Wireline Services, Inc | NA0124 |
| EX2015010752 | Epic Wireline Services, Inc | NA0494 |
| EX2015010753 | Epic Wireline Services, Inc | NA0494 |
| EX2015010754 | Epic Wireline Services, Inc | NA0124 |
| EX2015010755 | Epic Wireline Services, Inc | UN0494 |
| EX2015010756 | Epic Wireline Services, Inc | UN0124 |
| EX2012030723 | Express Energy Services | UN0494 |
| EX2012030724 | Express Energy Services | UN0494 |
| EX2012030725 | Express Energy Services | UN0494 |
| EX2012030726 | Express Energy Services | UN0494 |
| EX2012030727 | Express Energy Services | UN0494 |
| EX2012030728 | Express Energy Services | UN0494 |
| EX2014110180 | Extreme Wireline Inc | NA0494 |
| EX2014110182 | Extreme Wireline Inc | NA0494 |
| EX2014100455 | FMC Technologies Surface Integrated Services, Inc | UN0494 |
| EX2014100463 | FMC Technologies Surface Integrated Services, Inc | NA0494 |
| EX2014100467 | FMC Technologies Surface Integrated Services, Inc | UN0494 |
| EX2014100469 | FMC Technologies Surface Integrated Services, Inc | NA0494 |
| EX2012100799 | Frontier Completion Services, LLC | UN0124 |
| EX2012100800 | Frontier Completion Services, LLC | NA0494 |
| EX2012100801 | Frontier Completion Services, LLC | UN0124 |
| EX2012100802 | Frontier Completion Services, LLC | NA0494 |
| EX2012100803 | Frontier Completion Services, LLC | UN0124 |
| EX2012100804 | Frontier Completion Services, LLC | NA0494 |
| EX2012100805 | Frontier Completion Services, LLC | UN0124 |
| EX2012100806 | Frontier Completion Services, LLC | NA0494 |
| EX2012100807 | Frontier Completion Services, LLC | UN0124 |
| EX2012100808 | Frontier Completion Services, LLC | NA0494 |
| EX2012100809 | Frontier Completion Services, LLC | UN0124 |
| EX2012100810 | Frontier Completion Services, LLC | NA0494 |
| EX2012100811 | Frontier Completion Services, LLC | UN0124 |
| EX2016091098 | FTS International Services LLC | UN0124 |
| EX2015030446 | FTS International Services, LLC | UN0494 |
| EX2015030448 | FTS International Services, LLC | UN0124 |
| EX2015030450 | FTS International Services, LLC | UN0494 |

TABLE 3—APPROVAL HOLDERS—Continued

| EX No. | Company | UN/NA No. |
|---|---|---|
| EX2015030451 | FTS International Services, LLC | UN0124 |
| EX2015030452 | FTS International Services, LLC | NA0494 |
| EX2015030453 | FTS International Services, LLC | UN0494 |
| EX2015030454 | FTS International Services, LLC | UN0494 |
| EX2015030455 | FTS International Services, LLC | UN0494 |
| EX2015030456 | FTS International Services, LLC | UN0494 |
| EX2015030457 | FTS International Services, LLC | NA0494 |
| EX2015030458 | FTS International Services, LLC | NA0494 |
| EX2015030459 | FTS International Services, LLC | UN0494 |
| EX2013011200 | GE Oil & Gas Logging Services, Inc | UN0124 |
| EX2013011201 | GE Oil & Gas Logging Services, Inc | UN0494 |
| EX2013011202 | GE Oil & Gas Logging Services, Inc | UN0494 |
| EX2013011203 | GE Oil & Gas Logging Services, Inc | UN0494 |
| EX2013011204 | GE Oil & Gas Logging Services, Inc | UN0494 |
| EX2013011205 | GE Oil & Gas Logging Services, Inc | UN0494 |
| EX2013011206 | GE Oil & Gas Logging Services, Inc | UN0494 |
| EX2013011207 | GE Oil & Gas Logging Services, Inc | UN0124 |
| EX2013011208 | GE Oil & Gas Logging Services, Inc | UN0124 |
| EX2013011209 | GE Oil & Gas Logging Services, Inc | UN0124 |
| EX2013011210 | GE Oil & Gas Logging Services, Inc | UN0124 |
| EX2013011212 | GE Oil & Gas Logging Services, Inc | UN0124 |
| EX2013011214 | GE Oil & Gas Logging Services, Inc | NA0494 |
| EX2013011215 | GE Oil & Gas Logging Services, Inc | NA0494 |
| EX2013011216 | GE Oil & Gas Logging Services, Inc | NA0494 |
| EX2013011217 | GE Oil & Gas Logging Services, Inc | NA0124 |
| EX2013011218 | GE Oil & Gas Logging Services, Inc | NA0124 |
| EX2013011219 | GE Oil & Gas Logging Services, Inc | NA0124 |
| EX2013011220 | GE Oil & Gas Logging Services, Inc | UN0494 |
| EX2013020491 | GE Oil & Gas Logging Services, Inc | UN0124 |
| EX2015100254 | GEODynamics, Inc | NA0124 |
| EX2015100270 | GEODynamics, Inc | NA0124 |
| EX2015100745 | GEODynamics, Inc | NA0124 |
| EX2015050129 | GR Wireline LP | UN0494 |
| EX2015050130 | GR Wireline LP | NA0494 |
| EX2015050131 | GR Wireline LP | UN0124 |
| EX2015050132 | GR Wireline LP | UN0494 |
| EX2015050133 | GR Wireline LP | NA0494 |
| EX2015050134 | GR Wireline LP | NA0124 |
| EX2015050135 | GR Wireline LP | UN0494 |
| EX2016030436 | Halliburton Energy Services, Inc | UN0124 |
| EX2009010158 | Halliburton Energy Services, Inc | UN0124 |
| EX2009010162 | Halliburton Energy Services, Inc | UN0124 |
| EX2009010163 | Halliburton Energy Services, Inc | UN0124 |
| EX2009010164 | Halliburton Energy Services, Inc | UN0124 |
| EX2009010166 | Halliburton Energy Services, Inc | UN0124 |
| EX2009010193 | Halliburton Energy Services, Inc | UN0124 |
| EX2009010195 | Halliburton Energy Services, Inc | UN0124 |
| EX2009035019 | Hearne Wireline Service | UN0494 |
| EX2015110600 | High Plains, Inc | UN0494 |
| EX2015110602 | High Plains, Inc | UN0494 |
| EX2015110604 | High Plains, Inc | UN0494 |
| EX2015111360 | High Plains, Inc | UN0494 |
| EX1996110212 | Hitwell Surveys, Inc. c/o Owen Compliance Services | NA0124 |
| EX1996110213 | Hitwell Surveys, Inc. c/o Owen Compliance Services | NA0494 |
| EX2015070493 | Hunter Wireline Services, LLC | UN0494 |
| EX2015070495 | Hunter Wireline Services, LLC | UN0494 |
| EX2015070498 | Hunter Wireline Services, LLC | NA0494 |
| EX2015070499 | Hunter Wireline Services, LLC | NA0494 |
| EX2015070500 | Hunter Wireline Services, LLC | NA0494 |
| EX2015070501 | Hunter Wireline Services, LLC | UN0494 |
| EX2015070503 | Hunter Wireline Services, LLC | UN0494 |
| EX2015070505 | Hunter Wireline Services, LLC | NA0494 |
| EX2015070512 | Hunter Wireline Services, LLC | NA0494 |
| EX2015070514 | Hunter Wireline Services, LLC | UN0494 |
| EX2015070520 | Hunter Wireline Services, LLC | UN0494 |
| EX2015070521 | Hunter Wireline Services, LLC | NA0494 |
| EX2015070522 | Hunter Wireline Services, LLC | UN0494 |
| EX2009040043 | Integrated Production Services, Inc | UN0494 |
| EX2009040044 | Integrated Production Services, Inc | NA0124 |
| EX2009040045 | Integrated Production Services, Inc | UN0494 |
| EX2009040047 | Integrated Production Services, Inc | NA0494 |
| EX2009040086 | Integrated Production Services, Inc | UN0124 |

TABLE 3—APPROVAL HOLDERS—Continued

| EX No. | Company | UN/NA No. |
|---|---|---|
| EX2009040087 | Integrated Production Services, Inc | UN0494 |
| EX2009040089 | Integrated Production Services, Inc | UN0494 |
| EX2009040091 | Integrated Production Services, Inc | NA0124 |
| EX2009040092 | Integrated Production Services, Inc | UN0494 |
| EX2009040093 | Integrated Production Services, Inc | NA0124 |
| EX2009040094 | Integrated Production Services, Inc | UN0124 |
| EX2009040095 | Integrated Production Services, Inc | NA0494 |
| EX2009040096 | Integrated Production Services, Inc | UN0494 |
| EX2009040097 | Integrated Production Services, Inc | NA0124 |
| EX2009040098 | Integrated Production Services, Inc | NA0494 |
| EX2009040099 | Integrated Production Services, Inc | UN0494 |
| EX2009040100 | Integrated Production Services, Inc | UN0124 |
| EX2009040101 | Integrated Production Services, Inc | NA0494 |
| EX2009040102 | Integrated Production Services, Inc | UN0124 |
| EX2009040103 | Integrated Production Services, Inc | NA0494 |
| EX2010071124 | J–W Wireline Company | NA0494 |
| EX2010071125 | J–W Wireline Company | NA0494 |
| EX2010071126 | J–W Wireline Company | NA0494 |
| EX2010071127 | J–W Wireline Company | UN0494 |
| EX2010071128 | J–W Wireline Company | UN0494 |
| EX2010071129 | J–W Wireline Company | UN0494 |
| EX2010071130 | J–W Wireline Company | UN0494 |
| EX2010071131 | J–W Wireline Company | UN0494 |
| EX2010071132 | J–W Wireline Company | UN0494 |
| EX2010071133 | J–W Wireline Company | UN0494 |
| EX2009050655 | K & N Perforators, Inc | UN0494 |
| EX2010050454 | K & N Perforators, Inc | NA0494 |
| EX2010050455 | K & N Perforators, Inc | NA0494 |
| EX2010050456 | K & N Perforators, Inc | NA0494 |
| EX2010050457 | K & N Perforators, Inc | NA0494 |
| EX2010050458 | K & N Perforators, Inc | NA0494 |
| EX2010050459 | K & N Perforators, Inc | NA0494 |
| EX2010050460 | K & N Perforators, Inc | UN0494 |
| EX2014080601 | Keane Frac ND, LLC | UN0124 |
| EX2014080602 | Keane Frac ND, LLC | NA0124 |
| EX2014080603 | Keane Frac ND, LLC | UN0494 |
| EX2014080605 | Keane Frac ND, LLC | NA0494 |
| EX2014090516 | Keane Frac ND, LLC | NA0124 |
| EX2014080593 | Keane Frac TX, LLC | UN0124 |
| EX2014080596 | Keane Frac TX, LLC | NA0124 |
| EX2014080598 | Keane Frac TX, LLC | UN0494 |
| EX2014080599 | Keane Frac TX, LLC | NA0494 |
| EX2013110799 | Keane Frac, LP | UN0494 |
| EX2013110800 | Keane Frac, LP | NA0124 |
| EX2013110802 | Keane Frac, LP | NA0494 |
| EX2009035502 | Key Electric Wireline Services, LLC | UN0124 |
| EX2009035503 | Key Electric Wireline Services, LLC | UN0124 |
| EX2009035504 | Key Electric Wireline Services, LLC | UN0124 |
| EX2009035505 | Key Electric Wireline Services, LLC | UN0124 |
| EX2009035506 | Key Electric Wireline Services, LLC | UN0494 |
| EX2009035507 | Key Electric Wireline Services, LLC | UN0494 |
| EX2009035508 | Key Electric Wireline Services, LLC | UN0124 |
| EX2009035509 | Key Electric Wireline Services, LLC | UN0494 |
| EX2009035510 | Key Electric Wireline Services, LLC | UN0124 |
| EX2009035511 | Key Electric Wireline Services, LLC | UN0124 |
| EX2009035512 | Key Electric Wireline Services, LLC | UN0494 |
| EX2009035513 | Key Electric Wireline Services, LLC | UN0124 |
| EX2009035514 | Key Electric Wireline Services, LLC | UN0494 |
| EX2009035515 | Key Electric Wireline Services, LLC | UN0494 |
| EX2009035516 | Key Electric Wireline Services, LLC | UN0494 |
| EX2009035517 | Key Electric Wireline Services, LLC | UN0494 |
| EX2009035518 | Key Electric Wireline Services, LLC | UN0124 |
| EX2009035519 | Key Electric Wireline Services, LLC | UN0494 |
| EX2009035520 | Key Electric Wireline Services, LLC | UN0124 |
| EX2009035521 | Key Electric Wireline Services, LLC | UN0494 |
| EX2009035522 | Key Electric Wireline Services, LLC | UN0124 |
| EX2009035523 | Key Electric Wireline Services, LLC | UN0494 |
| EX2009035524 | Key Electric Wireline Services, LLC | UN0494 |
| EX2009035525 | Key Electric Wireline Services, LLC | UN0124 |
| EX2009050253 | Lone Wolf Wireline, Inc | NA0124 |
| EX2009050254 | Lone Wolf Wireline, Inc | UN0494 |
| EX2009050255 | Lone Wolf Wireline, Inc | UN0124 |

TABLE 3—APPROVAL HOLDERS—Continued

| EX No. | Company | UN/NA No. |
|---|---|---|
| EX2009050256 | Lone Wolf Wireline, Inc | NA0494 |
| EX2009050257 | Lone Wolf Wireline, Inc | NA0124 |
| EX2009050258 | Lone Wolf Wireline, Inc | UN0494 |
| EX2009050259 | Lone Wolf Wireline, Inc | UN0124 |
| EX2009050260 | Lone Wolf Wireline, Inc | NA0494 |
| EX2009050261 | Lone Wolf Wireline, Inc | NA0124 |
| EX2009050264 | Lone Wolf Wireline, Inc | NA0494 |
| EX2009050275 | Lone Wolf Wireline, Inc | NA0494 |
| EX2014120034 | Magna Energy Services, LLC | UN0494 |
| EX2014120035 | Magna Energy Services, LLC | UN0494 |
| EX2009050133 | Mesa Wireline, LLC | UN0494 |
| EX2009050134 | Mesa Wireline, LLC | UN0124 |
| EX2009050153 | Mesa Wireline, LLC | UN0494 |
| EX2009050156 | Mesa Wireline, LLC | NA0124 |
| EX2009050157 | Mesa Wireline, LLC | UN0494 |
| EX2009050158 | Mesa Wireline, LLC | UN0124 |
| EX2013050446 | Moncla E-line Services, Inc | UN0494 |
| EX2013050447 | Moncla E-line Services, Inc | NA0494 |
| EX2013050448 | Moncla E-line Services, Inc | NA0494 |
| EX2013050449 | Moncla E-line Services, Inc | NA0494 |
| EX2013050450 | Moncla E-line Services, Inc | NA0494 |
| EX2013050451 | Moncla E-line Services, Inc | NA0494 |
| EX2013050452 | Moncla E-line Services, Inc | NA0494 |
| EX2013050476 | Moncla E-line Services, Inc | UN0494 |
| EX2013050477 | Moncla E-line Services, Inc | UN0494 |
| EX2013050479 | Moncla E-line Services, Inc | UN0494 |
| EX2013050480 | Moncla E-line Services, Inc | UN0494 |
| EX2013050481 | Moncla E-line Services, Inc | UN0494 |
| EX2013050482 | Moncla E-line Services, Inc | UN0494 |
| EX2009050029 | Nabors Completion & Production Services Co | NA0124 |
| EX2009050038 | Nabors Completion & Production Services Co | UN0494 |
| EX2009050040 | Nabors Completion & Production Services Co | NA0494 |
| EX2009050041 | Nabors Completion & Production Services Co | NA0124 |
| EX2009050042 | Nabors Completion & Production Services Co | UN0494 |
| EX2009050043 | Nabors Completion & Production Services Co | UN0124 |
| EX2009050044 | Nabors Completion & Production Services Co | NA0494 |
| EX2009050045 | Nabors Completion & Production Services Co | NA0124 |
| EX2009050046 | Nabors Completion & Production Services Co | UN0494 |
| EX2009050047 | Nabors Completion & Production Services Co | UN0124 |
| EX2009050050 | Nabors Completion & Production Services Co | UN0494 |
| EX2009050051 | Nabors Completion & Production Services Co | UN0124 |
| EX2009050052 | Nabors Completion & Production Services Co | UN0494 |
| EX2009050053 | Nabors Completion & Production Services Co | UN0124 |
| EX2009050054 | Nabors Completion & Production Services Co | NA0494 |
| EX2015010280 | Nitro Downhole LLC | UN0494 |
| EX2018122399 | Norman Wireline Service, Inc | UN0494 |
| EX1996110217 | Owen Oil Tools, Inc c/o Owen Compliance Services | NA0494 |
| EX2015070752 | Patriot Well Solutions | NA0494 |
| EX2015070753 | Patriot Well Solutions | UN0494 |
| EX2015070754 | Patriot Well Solutions | UN0124 |
| EX2015070755 | Patriot Well Solutions | UN0494 |
| EX2015070756 | Patriot Well Solutions | NA0494 |
| EX2015070757 | Patriot Well Solutions | UN0494 |
| EX2014110383 | Peak Wireline Services Inc | UN0494 |
| EX2015010339 | Peak Wireline Services Inc | UN0494 |
| EX2015010340 | Peak Wireline Services Inc | UN0494 |
| EX2015010341 | Peak Wireline Services Inc | UN0494 |
| EX2009050128 | Perf-O-Log, Inc | UN0494 |
| EX2009050129 | Perf-O-Log, Inc | UN0494 |
| EX2015010001 | PerfX Wireline Services LLC | UN0494 |
| EX2012120815 | Petroleum Perforators, Inc | UN0494 |
| EX2012120816 | Petroleum Perforators, Inc | NA0494 |
| EX2012120817 | Petroleum Perforators, Inc | UN0494 |
| EX2012120820 | Petroleum Perforators, Inc | NA0494 |
| EX2012120822 | Petroleum Perforators, Inc | UN0494 |
| EX2012120823 | Petroleum Perforators, Inc | NA0494 |
| EX2012120824 | Petroleum Perforators, Inc | UN0494 |
| EX2012120828 | Petroleum Perforators, Inc | NA0494 |
| EX2012120830 | Petroleum Perforators, Inc | UN0494 |
| EX2012120831 | Petroleum Perforators, Inc | NA0494 |
| EX2012120832 | Petroleum Perforators, Inc | NA0494 |
| EX2012120833 | Petroleum Perforators, Inc | UN0494 |

TABLE 3—APPROVAL HOLDERS—Continued

| EX No. | Company | UN/NA No. |
|---|---|---|
| EX2012120834 | Petroleum Perforators, Inc | UN0494 |
| EX2013070110 | Petroleum Perforators, Inc | NA0494 |
| EX2013070129 | Petroleum Perforators, Inc | UN0494 |
| EX2013070130 | Petroleum Perforators, Inc | NA0494 |
| EX2013070131 | Petroleum Perforators, Inc | UN0494 |
| EX2013070132 | Petroleum Perforators, Inc | NA0494 |
| EX2013070135 | Petroleum Perforators, Inc | UN0494 |
| EX2013070140 | Petroleum Perforators, Inc | NA0494 |
| EX2009120009 | Precision Wireline Services, LLC | UN0494 |
| EX2009120014 | Precision Wireline Services, LLC | UN0494 |
| EX2013031301 | Precision Wireline Services, LLC | UN0494 |
| EX2013031303 | Precision Wireline Services, LLC | UN0494 |
| EX2013031284 | Precision Wireline Services, LLC | UN0494 |
| EX2013031305 | Precision Wireline Services, LLC | UN0494 |
| EX2013031306 | Precision Wireline Services, LLC | UN0494 |
| EX2013031307 | Precision Wireline Services, LLC | UN0494 |
| EX2013110530 | Priority Energy Services, LLC | UN0494 |
| EX2013110531 | Priority Energy Services, LLC | UN0494 |
| EX2015070491 | Pro Oilfield Services, LLC | UN0494 |
| EX2015070492 | Pro Oilfield Services, LLC | UN0494 |
| EX2015070494 | Pro Oilfield Services, LLC | UN0494 |
| EX2015070496 | Pro Oilfield Services, LLC | UN0494 |
| EX2015070497 | Pro Oilfield Services, LLC | UN0494 |
| EX2009020386 | PSI Wireline, Inc | UN0494 |
| EX2009020387 | PSI Wireline, Inc | NA0494 |
| EX2009020388 | PSI Wireline, Inc | UN0494 |
| EX2009020389 | PSI Wireline, Inc | NA0494 |
| EX2009020390 | PSI Wireline, Inc | UN0494 |
| EX2009020391 | PSI Wireline, Inc | NA0494 |
| EX2009020393 | PSI Wireline, Inc | UN0494 |
| EX2009020394 | PSI Wireline, Inc | UN0494 |
| EX2009020395 | PSI Wireline, Inc | UN0494 |
| EX2009050383 | PSI Wireline, Inc | UN0494 |
| EX2009050384 | PSI Wireline, Inc | UN0494 |
| EX2009050385 | PSI Wireline, Inc | UN0494 |
| EX2009020326 | Pure Energy Services (USA) | UN0494 |
| EX2009020327 | Pure Energy Services (USA) | UN0124 |
| EX2009035001 | Pure Energy Services (USA) | NA0124 |
| EX2009035002 | Pure Energy Services (USA) | NA0494 |
| EX2009035003 | Pure Energy Services (USA) | UN0124 |
| EX2009035004 | Pure Energy Services (USA) | UN0494 |
| EX2009035005 | Pure Energy Services (USA) | NA0124 |
| EX2009035006 | Pure Energy Services (USA) | NA0494 |
| EX2009035007 | Pure Energy Services (USA) | UN0124 |
| EX2009035308 | Pure Energy Services (USA) | UN0494 |
| EX2017010535 | QES Wireline, LLC | UN0124 |
| EX2012110221 | Quality Energy Services | UN0494 |
| EX2017062013 | Reach Wireline, LLC | NA0124 |
| EX2012120524 | Recon Petrotechnologies Oklahoma Inc | UN0494 |
| EX2015120059 | Reliable Wireline, LLC | UN0124 |
| EX2015120062 | Reliable Wireline, LLC | UN0494 |
| EX2015120063 | Reliable Wireline, LLC | NA0124 |
| EX2015120076 | Reliable Wireline, LLC | UN0124 |
| EX2015120077 | Reliable Wireline, LLC | UN0494 |
| EX2015120078 | Reliable Wireline, LLC | NA0124 |
| EX2015120079 | Reliable Wireline, LLC | NA0494 |
| EX2015100247 | Reliance Pressure Cotrol, LLC dba Reliance Oilfield Services | NA0494 |
| EX2015100248 | Reliance Pressure Cotrol, LLC dba Reliance Oilfield Services | UN0494 |
| EX2015100250 | Reliance Pressure Cotrol, LLC dba Reliance Oilfield Services | NA0494 |
| EX2015100230 | Reliance Pressure Cotrol, LLC, dba Reliance Oilfield Services | UN0494 |
| EX2015100235 | Reliance Pressure Cotrol, LLC, dba Reliance Oilfield Services | NA0494 |
| EX2015100237 | Reliance Pressure Cotrol, LLC, dba Reliance Oilfield Services | UN0494 |
| EX2013060448 | RockPile Energy Services | UN0124 |
| EX2013060616 | RockPile Energy Services | UN0124 |
| EX2013060619 | RockPile Energy Services | UN0124 |
| EX2013060620 | RockPile Energy Services | UN0124 |
| EX2013121301 | RockPile Energy Services, LLC | UN0494 |
| EX2009090389 | Rocky Mountain Wireline Service, Inc | UN0124 |
| EX2009090391 | Rocky Mountain Wireline Service, Inc | NA0124 |
| EX2009110296 | Rocky Mountain Wireline Service, Inc | NA0124 |
| EX2009110297 | Rocky Mountain Wireline Service, Inc | NA0494 |
| EX2009110298 | Rocky Mountain Wireline Service, Inc | UN0124 |

TABLE 3—APPROVAL HOLDERS—Continued

| EX No. | Company | UN/NA No. |
|---|---|---|
| EX2009110299 | Rocky Mountain Wireline Service, Inc | UN0494 |
| EX2009110301 | Rocky Mountain Wireline Service, Inc | NA0494 |
| EX2009110302 | Rocky Mountain Wireline Service, Inc | UN0124 |
| EX2009110303 | Rocky Mountain Wireline Service, Inc | UN0494 |
| EX2009110304 | Rocky Mountain Wireline Service, Inc | NA0124 |
| EX2009110305 | Rocky Mountain Wireline Service, Inc | NA0494 |
| EX2009110306 | Rocky Mountain Wireline Service, Inc | UN0494 |
| EX2009110307 | Rocky Mountain Wireline Service, Inc | UN0124 |
| EX2009110308 | Rocky Mountain Wireline Service, Inc | NA0494 |
| EX2009110309 | Rocky Mountain Wireline Service, Inc | NA0124 |
| EX2009110310 | Rocky Mountain Wireline Service, Inc | UN0124 |
| EX2009110311 | Rocky Mountain Wireline Service, Inc | UN0494 |
| EX2009110312 | Rocky Mountain Wireline Service, Inc | NA0124 |
| EX2009110313 | Rocky Mountain Wireline Service, Inc | NA0494 |
| EX2009110314 | Rocky Mountain Wireline Service, Inc | UN0124 |
| EX2009110315 | Rocky Mountain Wireline Service, Inc | UN0494 |
| EX2009110316 | Rocky Mountain Wireline Service, Inc | NA0124 |
| EX2009110317 | Rocky Mountain Wireline Service, Inc | UN0124 |
| EX2009110318 | Rocky Mountain Wireline Service, Inc | UN0494 |
| EX2015070685 | Rocky Mountain Wireline Service, Inc | UN0494 |
| EX2015070694 | Rocky Mountain Wireline Service, Inc | UN0124 |
| EX2016080197 | Rush Wellsite Services LLC | UN0494 |
| EX2016080198 | Rush Wellsite Services LLC | UN0494 |
| EX2016080199 | Rush Wellsite Services LLC | NA0494 |
| EX2016080200 | Rush Wellsite Services LLC | UN0494 |
| EX2016080201 | Rush Wellsite Services LLC | NA0494 |
| EX2009080294 | Schlumberger Technology Corporation | UN0124 |
| EX2009080291 | Schlumberger Technology Corporation | NA0494 |
| EX2009080295 | Schlumberger Technology Corporation | NA0124 |
| EX2009080296 | Schlumberger Technology Corporation | NA0494 |
| EX2009080297 | Schlumberger Technology Corporation | UN0494 |
| EX2009080298 | Schlumberger Technology Corporation | UN0124 |
| EX2009080300 | Schlumberger Technology Corporation | NA0124 |
| EX2009080301 | Schlumberger Technology Corporation | UN0124 |
| EX2009080302 | Schlumberger Technology Corporation | UN0494 |
| EX2009080303 | Schlumberger Technology Corporation | NA0124 |
| EX2009080305 | Schlumberger Technology Corporation | NA0494 |
| EX2009080306 | Schlumberger Technology Corporation | UN0124 |
| EX2009080307 | Schlumberger Technology Corporation | NA0124 |
| EX2009080308 | Schlumberger Technology Corporation | NA0494 |
| EX2009080309 | Schlumberger Technology Corporation | UN0494 |
| EX2009080310 | Schlumberger Technology Corporation | NA0124 |
| EX2009080311 | Schlumberger Technology Corporation | UN0124 |
| EX2009080312 | Schlumberger Technology Corporation | UN0494 |
| EX2009080313 | Schlumberger Technology Corporation | NA0494 |
| EX2009080314 | Schlumberger Technology Corporation | UN0124 |
| EX2009080315 | Schlumberger Technology Corporation | UN0494 |
| EX2009080316 | Schlumberger Technology Corporation | NA0124 |
| EX2009080317 | Schlumberger Technology Corporation | NA0494 |
| EX2009080318 | Schlumberger Technology Corporation | UN0124 |
| EX2009080319 | Schlumberger Technology Corporation | UN0494 |
| EX2012100250 | Schlumberger Technology Corporation | UN0494 |
| EX2012100251 | Schlumberger Technology Corporation | UN0124 |
| EX2012100366 | Schlumberger Technology Corporation | UN0494 |
| EX2012100367 | Schlumberger Technology Corporation | UN0124 |
| EX2013080458 | Schlumberger Technology Corporation | NA0124 |
| EX2013100334 | Schlumberger Technology Corporation | UN0494 |
| EX2013100335 | Schlumberger Technology Corporation | UN0124 |
| EX1994010168 | Schlumberger Well Services | UN0124 |
| EX1994010169 | Schlumberger Well Services | NA0124 |
| EX1996060153 | Shaped Charge Specialist, Inc | UN0124 |
| EX1996060154 | Shaped Charge Specialist, Inc | UN0494 |
| EX2010120187 | Sharpshooters, Inc | UN0494 |
| EX2010120638 | Sharpshooters, Inc | UN0494 |
| EX2010120639 | Sharpshooters, Inc | UN0494 |
| EX2010120640 | Sharpshooters, Inc | UN0124 |
| EX2010120641 | Sharpshooters, Inc | UN0124 |
| EX2010010401 | Smith International, Inc | UN0494 |
| EX2015020509 | Southern Well Survey | UN0124 |
| EX2011020588 | Star-Jet Services, Inc | UN0494 |
| EX2011020590 | Star-Jet Services, Inc | UN0494 |
| EX2011020591 | Star-Jet Services, Inc | UN0494 |

TABLE 3—APPROVAL HOLDERS—Continued

| EX No. | Company | UN/NA No. |
|---|---|---|
| EX2011020592 | Star-Jet Services, Inc | UN0494 |
| EX2011021392 | Star-Jet Services, Inc | UN0494 |
| EX2014100604 | Strategic Wireline Services LLC | UN0494 |
| EX2014100605 | Strategic Wireline Services LLC | UN0494 |
| EX2014100606 | Strategic Wireline Services LLC | UN0494 |
| EX2014100607 | Strategic Wireline Services LLC | UN0494 |
| EX2009050039 | Superior Well Services, Inc | UN0124 |
| EX2009050048 | Superior Well Services, Inc | NA0494 |
| EX2014060299 | Terragon Energy Services, LLC | UN0494 |
| EX2014060310 | Terragon Energy Services, LLC | UN0494 |
| EX2014060298 | Terragon Energy Services, LLC | UN0494 |
| EX2010120189 | Tetra Applied Technologies, LLC | UN0494 |
| EX2010120643 | Tetra Applied Technologies, LLC | UN0124 |
| EX2010120644 | Tetra Applied Technologies, LLC | UN0494 |
| EX2010120645 | Tetra Applied Technologies, LLC | UN0124 |
| EX2010120646 | Tetra Applied Technologies, LLC | UN0124 |
| EX2010120647 | Tetra Applied Technologies, LLC | UN0494 |
| EX2010120648 | Tetra Applied Technologies, LLC | UN0124 |
| EX2010120649 | Tetra Applied Technologies, LLC | UN0494 |
| EX2010120650 | Tetra Applied Technologies, LLC | UN0124 |
| EX2010120651 | Tetra Applied Technologies, LLC | UN0494 |
| EX2010120652 | Tetra Applied Technologies, LLC | UN0124 |
| EX2010120658 | Tetra Applied Technologies, LLC | UN0494 |
| EX2010120659 | Tetra Applied Technologies, LLC | UN0124 |
| EX2010120660 | Tetra Applied Technologies, LLC | UN0494 |
| EX2010120661 | Tetra Applied Technologies, LLC | NA0124 |
| EX2010120662 | Tetra Applied Technologies, LLC | NA0494 |
| EX2010120706 | Tetra Applied Technologies, LLC | NA0124 |
| EX2010120707 | Tetra Applied Technologies, LLC | NA0494 |
| EX2010120708 | Tetra Applied Technologies, LLC | NA0124 |
| EX2010120709 | Tetra Applied Technologies, LLC | NA0494 |
| EX2011110218 | Titan Wireline Services | UN0124 |
| EX2011110219 | Titan Wireline Services | NA0494 |
| EX2011110220 | Titan Wireline Services | UN0494 |
| EX2011110221 | Titan Wireline Services | UN0494 |
| EX2011110222 | Titan Wireline Services | UN0494 |
| EX1996110206 | Titan Wireline Services c/o Owen Compliance Service | NA0124 |
| EX1996110207 | Titan Wireline Services c/o Owen Compliance Service | NA0494 |
| EX2012080810 | Tucker Energy Services Inc | UN0494 |
| EX2013090762 | Tucker Energy Services Inc | NA0494 |
| EX2009060090 | United Surveys Inc | UN0494 |
| EX2009060091 | United Surveys Inc | UN0494 |
| EX2009060092 | United Surveys Inc | NA0494 |
| EX2009060095 | UNITED SURVEYS, INC | UN0494 |
| EX2009060098 | UNITED SURVEYS, INC | UN0494 |
| EX2012051013 | Warrior Energy Services | UN0494 |
| EX2012051014 | Warrior Energy Services | UN0494 |
| EX2012051015 | Warrior Energy Services | NA0494 |
| EX2012051016 | Warrior Energy Services | UN0494 |
| EX2012051018 | Warrior Energy Services | UN0494 |
| EX2012061117 | Warrior Energy Services Corporation | NA0494 |
| EX2012061119 | Warrior Energy Services Corporation | UN0494 |
| EX2012061120 | Warrior Energy Services Corporation | NA0494 |
| EX2012061121 | Warrior Energy Services Corporation | UN0494 |
| EX2012061123 | Warrior Energy Services Corporation | UN0494 |
| EX2012061124 | Warrior Energy Services Corporation | NA0494 |
| EX2012061122 | Warrior Energy Services Corporation | NA0494 |
| EX2010090677 | Weaver Services Inc, dba WSI Cased Hole Specialist | NA0124 |
| EX2010090678 | Weaver Services Inc, dba WSI Cased Hole Specialist | NA0124 |
| EX2010090679 | Weaver Services Inc, dba WSI Cased Hole Specialist | NA0124 |
| EX2010090680 | Weaver Services Inc, dba WSI Cased Hole Specialist | NA0124 |
| EX2010090681 | Weaver Services Inc, dba WSI Cased Hole Specialist | UN0494 |
| EX2010090682 | Weaver Services Inc, dba WSI Cased Hole Specialist | UN0494 |
| EX2010090683 | Weaver Services Inc, dba WSI Cased Hole Specialist | UN0494 |
| EX2010090684 | Weaver Services Inc, dba WSI Cased Hole Specialist | UN0494 |
| EX2010090685 | Weaver Services Inc, dba WSI Cased Hole Specialist | UN0494 |
| EX2010090686 | Weaver Services Inc, dba WSI Cased Hole Specialist | UN0494 |
| EX2010090687 | Weaver Services Inc, dba WSI Cased Hole Specialist | NA0124 |
| EX2010090688 | Weaver Services Inc, dba WSI Cased Hole Specialist | NA0124 |
| EX2010090689 | Weaver Services Inc, dba WSI Cased Hole Specialist | UN0494 |
| EX2010090690 | Weaver Services Inc, dba WSI Cased Hole Specialist | NA0494 |
| EX2010090691 | Weaver Services Inc, dba WSI Cased Hole Specialist | NA0494 |

TABLE 3—APPROVAL HOLDERS—Continued

| EX No. | Company | UN/NA No. |
|---|---|---|
| EX2010090692 | Weaver Services Inc, dba WSI Cased Hole Specialist | NA0494 |
| EX2010090693 | Weaver Services Inc, dba WSI Cased Hole Specialist | NA0494 |
| EX2010090694 | Weaver Services Inc, dba WSI Cased Hole Specialist | NA0494 |
| EX2010090733 | Weaver Services Inc, dba WSI Cased Hole Specialist | NA0494 |
| EX2011020555 | Well Service of Alabama LLC | UN0494 |
| EX2011020861 | Well Service of Alabama LLC | UN0494 |
| EX2011020862 | Well Service of Alabama LLC | UN0494 |
| EX2021042088 | Wellmatics | NA0124 |
| EX2009050094 | Wireline Specialties, Inc | UN0494 |
| EX2009050095 | Wireline Specialties, Inc | UN0124 |
| EX2009050096 | Wireline Specialties, Inc | NA0494 |
| EX2009050097 | Wireline Specialties, Inc | NA0124 |
| EX2009050098 | Wireline Specialties, Inc | UN0124 |
| EX2009050099 | Wireline Specialties, Inc | UN0124 |
| EX2009050100 | Wireline Specialties, Inc | NA0494 |
| EX2009050101 | Wireline Specialties, Inc | NA0124 |
| EX2009050102 | Wireline Specialties, Inc | UN0124 |
| EX2009050103 | Wireline Specialties, Inc | UN0124 |
| EX2009050104 | Wireline Specialties, Inc | NA0494 |
| EX2009050105 | Wireline Specialties, Inc | NA0124 |
| EX2009050106 | Wireline Specialties, Inc | UN0494 |
| EX2009050107 | Wireline Specialties, Inc | UN0124 |
| EX2009050108 | Wireline Specialties, Inc | NA0494 |
| EX2009050109 | Wireline Specialties, Inc | NA0124 |
| EX2009050110 | Wireline Specialties, Inc | UN0494 |
| EX2009050111 | Wireline Specialties, Inc | UN0124 |
| EX2009050112 | Wireline Specialties, Inc | NA0494 |
| EX2009050113 | Wireline Specialties, Inc | NA0124 |
| EX2009050114 | Wireline Specialties, Inc | UN0494 |
| EX2009050115 | Wireline Specialties, Inc | UN0124 |
| EX2009050116 | Wireline Specialties, Inc | NA0494 |
| EX2009050117 | Wireline Specialties, Inc | NA0124 |
| EX2009050118 | Wireline Specialties, Inc | UN0494 |
| EX2009050119 | Wireline Specialties, Inc | UN0124 |
| EX2010091016 | Wrangler Wireline, Inc | UN0494 |
| EX2011120468 | Wren Oilfield Services, Inc | UN0494 |
| EX2011120502 | Wren Oilfield Services, Inc | UN0494 |
| EX2011120504 | Wren Oilfield Services, Inc | UN0494 |
| EX2011120506 | Wren Oilfield Services, Inc | UN0494 |
| EX2012050234 | Wren Oilfield Services, Inc | UN0494 |

Issued in Washington, DC, on August 9, 2022.

**William S. Schoonover,**

*Associate Administrator for Hazardous Materials Safety, Pipeline and Hazardous Materials Safety Administration.*

[FR Doc. 2022–17344 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–60–P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

**[Docket No. DOT–OST–2013–0074]**

### Request OMB Clearance for Agency Request for Reinstatement of a Previously Approved Information Collection: Foreign Air Carrier Application for Statement of Authorization

**AGENCY:** Department of Transportation (DOT), Office of the Secretary (OST).

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Department of Transportation's Office of the Secretary (OST) invites the general public, industry and other governmental parties to comment on the Foreign Air Carrier Application for Statement of Authorization. The pre-existing information collection request previously approved by the Office of Management and Budget (OMB) expired on July 31, 2022.

**DATES:** Written comments should be submitted by October 2, 2022.

**FOR FURTHER INFORMATION CONTACT:** Darren Jaffe, (202) 366–2512, Office of International Aviation, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W86–441, Washington, DC 20590. Office hours are from 9 a.m. to 5:30 p.m., Monday through Friday, except Federal holidays.

**ADDRESSES:** You may submit a comment to Docket No. DOT–OST–2013–0074 through one of the following methods:

*Website: https://www.regulations.gov.* Follow the instructions for submitting comments on the FDMS electronic docket site.

*Fax:* 1–202–493–2251.

*Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590.

*Hand Delivery:* Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Wednesday and Federal Holidays.

*Instructions:* All comments must include the agency name and FDMS Docket No. DOT–OST–2013–0074. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual

submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.) You may review DOT's complete Privacy Act Statement in the **Federal Register** published on February 3, 2006 (71 FR 5780), or you may visit *http://www.regulations.gov.*

*Docket:* For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 a.m., Monday through Friday, except Wednesday and Federal holidays.

If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on Docket No. DOT–OST–2013–0074. The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail. Please note that due to delays in the delivery of U.S. mail to Federal offices in Washington, DC, we recommend that persons consider an alternative method (internet, fax, or professional delivery service) to submit comments to the docket and to ensure their timely receipt at U.S. DOT.

**SUPPLEMENTARY INFORMATION:**

*OMB Control No.* 2106–0035.

*Title:* Foreign Air Carrier Application for Statement of Authorization.

*Form No.:* Form OST 4540.

*Type of Review:* Reinstatement of a Previously Approved Information Collection.

*Respondents:* Foreign Air Carriers.

*Number of Respondents:* Approximately 100.

*Estimated Time per Response:* 2.25 hours per application.

*Total Annual Burden:* 1,000 hours.

*Abstract:* Applicants use Form OST 4540 to request statements of authorization to conduct numerous types of operations authorized under 14 CFR part 212. The form requires basic information regarding the carrier(s) conducting the operation, the party filing the form, the operations being conducted, the number of third- and fourth-freedom flights conducted in the last twelve-month period, and certification of reciprocity from the carrier's homeland government. DOT analysts will use the information collected to determine if applications for fifth-freedom operations meet the public interest requirements necessary to authorize such applications.

*Burden Statement:* We estimate that the industry-wide total hour burden for this collection to be approximately 1,000 hours or approximately 2.25 hours per application. Conservatively, we estimate the compilation of background information will require 1.75 hours, and the completion and submission of OST Form 4540 will require thirty (30) minutes. Reporting the number of third- and fourth-freedom operations conducted by an applicant carrier will require collection of flight data, and detailed analysis to determine which flights conducted by the carrier are third- and fourth-freedom. Applicants should be able to use data collected for the Department's T–100 program to provide this information (under this program, carriers are required periodically to compile and report certain traffic data to the Department, as more fully described in the Docket referenced in footnote 1 below). The Bureau of Transportation Statistics (BTS) provide carriers with a computer program that allows them to compile and monitor, among other things, flight origin and destination data, to be used in making the carriers' T–100 submissions.[1] We estimated that carriers will require 1.25 hours per application [2] to compile and analyze the data necessary to disclose the number of third- and fourth-freedom flights conducted within the twelve-month period preceding the filing of an application.

Foreign carriers will also have to provide evidence that their homeland government will afford reciprocity to U.S. carriers seeking authority for the similar fifth-, sixth- and seventh-freedom operations. Carriers may cite certifications submitted by carriers from the same homeland if that homeland issued such certification within the preceding six-month period. Approximately 100 carriers from roughly 30 distinct homelands use OST Form 4540 to apply for statements of authorization annually. We estimate that one foreign carrier from any given homeland will expend roughly 4 hours every six-months to obtain certification from its homeland governments.[3] We have apportioned 30 minutes to each application to account for the time required to obtain certifications from homeland governments.

We have no empirical data to indicate how much time is required for a person to complete OST Form 4540; however, anecdotal evidence reveals that respondents spend thirty (30) minutes or less completing the form and brief justification. In some cases, respondents spend a limited amount of time, less than ten (10) minutes, reviewing the form before sending it via facsimile or email to the Department. In the interest of providing a conservative estimate so as to not understate the burden hours, we estimate the hour burden for completing OST Form 4540 as thirty (30) minutes.

*Public Comments Invited:* You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the Office of the Secretary's performance; (2) the accuracy of the estimated burden; (3) ways for the Office of the Secretary to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

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.

Issued in Washington, DC, on August 9, 2022.

**Benjamin J. Taylor,**

*Director, Office of the International Aviation.*

[FR Doc. 2022–17339 Filed 8–11–22; 8:45 am]

**BILLING CODE 4910–9X–P**

[1] The rule-making associated with the T–100 program can be found on the Federal Docket Management System (FDMS) at *http://www.regulations.gov,* in Docket DOT–OST–1998–4043. Information regarding burden hours is on file in the Office of Aviation Analysis (X–50).

[2] The Office of Aviation Analysis (X–50) estimated that small-carriers would require 1 burden hour per report, and large carriers would require 3 burden hours per report to analyze and report T–100 program data. Considering that the data required in this information collection can be derived from data already collected, we have taken an average of the estimated time required, and conservatively shortened the time by 45 minutes because no new data entry will be required.

[3] Calculation: (4 burden hours per application) × (30 foreign homelands) × (2 requests per year) = 240 annual burden hours. Apportioning 240 annual burden hours equally among an average of 430 applications annually = approximately 30 burden minutes per application.

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

### Agency Information Collection Activities: Information Collection Renewal; Comment Request; Financial Management Policies—Interest Rate Risk

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning renewal of its information collection titled, ''Financial Management Policies—Interest Rate Risk,'' which is applicable only to Federal savings associations.

**DATES:** Comments must be submitted on or before October 11, 2022.

**ADDRESSES:** Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0299, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

*Instructions:* You must include ''OCC'' as the agency name and ''1557–0299'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

- *Viewing Comments Electronically*: Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' drop down menu. Click on ''Information Collection Review.'' From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0299'' or ''Financial Management Policies—Interest Rate Risk.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

**FOR FURTHER INFORMATION CONTACT:** Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from OMB for each collection of information that 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, and/or provide information to a third party. Section 3506(c)(2)(A) of title 44 requires Federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing this notice of the renewal of the following information collection:

*Title:* Financial Management Policies—Interest Rate Risk.

*OMB Control No.:* 1557–0299.

*Type of Review:* Regular.

*Affected Public:* Businesses or other for-profit.

*Frequency of Response:* On occasion.

*Burden Estimate*:

*Estimated Number of Respondents:* 263.

*Estimated Annual Burden:* 10,520.

*Abstract:* This information collection covers the recordkeeping burden for Federal savings associations to maintain data in accordance with OCC's regulation on interest rate risk procedures, 12 CFR 163.176. The purpose of the regulation is to ensure that Federal savings associations appropriately manage their exposure to interest rate risk. To comply with this reporting requirement, institutions need to maintain sufficient records to document how their interest rate risk exposure is monitored and managed internally.

*Comments*: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collections of information are necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(b) The accuracy of the OCC's estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections 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.

**Patrick T. Tierney,**

*Assistant Director, Bank Advisory, Office of the Comptroller of the Currency.*

[FR Doc. 2022–17323 Filed 8–11–22; 8:45 am]

**BILLING CODE 4810–33–P**

## UNIFIED CARRIER REGISTRATION PLAN

### Sunshine Act Meetings

**TIME AND DATE:** August 18, 2022, 12:00 p.m. to 2:00 p.m., Eastern time.

**PLACE:** This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll) or (ii) 1–877–853–5247 (US Toll Free) or 1–888–788–0099 (US Toll Free), Meeting ID: 994 9030 9143, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is *https://kellen.zoom.us/meeting/register/tJ0pfumrrjIrHtfXuYMESgBABSaxbGIfmwvE.*

**STATUS:** This meeting will be open to the public.

**MATTERS TO BE CONSIDERED:** The Unified Carrier Registration Plan Education and Training Subcommittee (the ''Subcommittee'') will continue its work

in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

## Proposed Agenda

**I. Call to Order—Subcommittee Chair**

The Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

**II. Verification of Publication of Meeting Notice—UCR Executive Director**

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

**III. Review and Approval of Subcommittee Agenda and Setting of Ground Rules—Subcommittee Chair**

*For Discussion and Possible Subcommittee Action*

The Subcommittee Agenda will be reviewed, and the Subcommittee will consider adoption.

Ground Rules

➢ Subcommittee action only to be taken in designated areas on agenda

**IV. Review and Approval of Subcommittee Minutes from the June 23, 2022 Subcommittee Meeting—Subcommittee Chair**

*For Discussion and Possible Subcommittee Action*

Draft minutes from the June 23, 2022, Subcommittee meeting via teleconference will be reviewed. The Subcommittee will consider action to approve.

**V. Roadside Enforcement Module Video Update—Subcommittee Chair**

The Subcommittee Chair will provide an update on the Roadside Enforcement Module that describes the steps a roadside law enforcement officer would use to enforce UCR.

**VI. UCR Education and E-Certificate Strategy—Subcommittee Chair**

The Subcommittee Chair will discuss the UCR E-Certificate and review questions assigned to Subcommittee members.

**VII. UCR Volunteer Training Module—UCR Chief Staff Executive**

The UCR Chief Staff Executive will discuss the UCR Volunteer Training Module.

**VIII. Other Business—Subcommittee Chair**

The Subcommittee Chair will call for any other items Subcommittee members would like to discuss.

**IX. Adjournment—Subcommittee Chair**

The Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, August 10, 2022 at: *https://plan.ucr.gov*.

**CONTACT PERSON FOR MORE INFORMATION:** Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, *eleaman@board.ucr.gov*.

**Alex B. Leath,**

*Chief Legal Officer, Unified Carrier Registration Plan.*

[FR Doc. 2022–17465 Filed 8–10–22; 11:15 am]

**BILLING CODE 4910–YL–P**


# FEDERAL REGISTER

Vol. 87 Friday,
No. 155 August 12, 2022

Part II

## Securities and Exchange Commission

17 CFR Part 240
Exemption for Certain Exchange Members; Proposed Rule

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 240**

**[Release No. 34–95388; File No. S7–05–15]**

**RIN 3235–AN17**

## Exemption for Certain Exchange Members

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Securities and Exchange Commission (''Commission'') is re-proposing amendments to a rule under the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') that exempts certain registered brokers or dealers from membership in a registered national securities association (''Association''). The re-proposed amendments would replace the rule's *de minimis* allowance, including the exclusion therefrom for proprietary trading, with narrower exemptions from Association membership for any registered broker or dealer that is a member of a national securities exchange, carries no customer accounts, and effects transactions in securities otherwise than on a national securities exchange of which it is a member. The re-proposed amendments would create exemptions for such a registered broker or dealer that effects transactions off an exchange of which it is a member that result solely from orders that are routed by a national securities exchange of which it is a member to comply with order protection regulatory requirements, or are solely for the purpose of executing the stock leg of a stock-option order.

**DATES:** Comments should be received on or before September 27, 2022.

**ADDRESSES:** Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's internet comment form (*https://www.sec.gov/rules/submitcomments.html*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–05–15 on the subject line; or

*Paper Comments*

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–05–15. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/proposed.shtml*). Comments also are 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. Operating conditions may limit access to the Commission's public reference room. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this rulemaking. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's website. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

**FOR FURTHER INFORMATION CONTACT:** Michael Bradley, Assistant Director, at (202) 551–5594; David Michehl, Special Counsel, at (202) 551–5627; Nicholas Shwayri, Special Counsel, at (202) 551–5667; Vince Vuong, Special Counsel, at (202) 551–3742; or Mark Sater, Attorney-Advisor, at (202) 551–4729, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–7010.

**SUPPLEMENTARY INFORMATION:**

### Table of Contents



## I. Introduction

Section 15(b)(8) of the Act [1] prohibits any registered broker or dealer from effecting transactions in securities unless it is a member of an Association or effects transactions in securities solely on an exchange of which it is a member.[2] Section 15(b)(9) of the Act [3] provides the Commission with authority to exempt any broker or dealer from Section 15(b)(8), if that exemption is consistent with the public interest and the protection of investors. Pursuant to the authority conferred by Section 15(b)(9), Rule 15b9–1 provides that any broker or dealer required by Section 15(b)(8) of the Act to become a member of an Association shall be exempt from such requirement if it is a member of a national securities exchange, carries no customer accounts, and has annual

[1] 15 U.S.C. 78*o*(b)(8).

[2] Section 15(b)(8) applies to any security other than commercial paper, bankers' acceptances, or commercial bills. *Id.*

[3] 15 U.S.C. 78*o*(b)(9).

gross income derived from purchases and sales of securities otherwise than on a national securities exchange of which it is a member in an amount no greater than $1,000 (this $1,000 gross income allowance is referred to herein as the ''*de minimis* allowance'').[4] Under Rule 15b9–1, the *de minimis* allowance does not apply to income derived from transactions for a registered dealer's own account with or through another registered broker or dealer (referred to herein as the ''proprietary trading exclusion'').[5] Accordingly, a registered dealer can rely on Rule 15b9–1 to remain exempt from Association membership while engaging in unlimited proprietary trading of securities on any national securities exchange of which it is not a member or in the off-exchange market,[6] so long as it is a member of a national securities exchange, carries no customer accounts, and its proprietary trading is conducted with or through another registered broker-dealer.

The securities markets have evolved dramatically in the forty-plus years since the Commission adopted Rule 15b9–1. During that span, the securities markets have transformed from being floor-based to being mostly electronic, and registered dealers have emerged that engage in significant, computer-based, cross-market proprietary trading activity. Several proprietary trading firms that are registered dealers and exchange members are not members of an Association, in reliance on Rule 15b9–1. These firms may effect significant securities transaction volume elsewhere than on an exchange of which they are a member but are not subject to Association oversight.

Self-regulatory organization (''SRO'')[7] regulation of each broker or dealer is dependent upon the broker or dealer's individual SRO membership status. Each SRO that operates an exchange has responsibility for overseeing trading that occurs on the exchange it operates. Because of this, SROs that operate an exchange possess expertise in supervising members who specialize in trading the products and utilizing the order types that may be unique or specialized within the exchange. This expertise complements the expertise of an Association in supervising its members' cross-exchange and off-exchange securities trading activity. Indeed, the Exchange Act's statutory framework places SRO oversight responsibility with an Association for trading that occurs elsewhere than an exchange to which a broker or dealer belongs as a member.[8] Individual exchanges have expertise in regulating their markets and historically have monitored market activity specific to their own exchanges or have outsourced that function to a third party. The Financial Industry Regulatory Authority, Inc. (''FINRA''), the only Association currently, historically has overseen cross-exchange and off-exchange securities trading activity.[9] But brokers and dealers that are not FINRA members are not subject to FINRA's rules.[10]

As a result, when broker-dealer firms that are not FINRA members effect securities transactions otherwise than on an exchange of which they are a member, such as off-exchange or on exchanges where they are not a member (collectively referred to herein as ''off-member-exchange''),[11] these firms are not all subject to the same set of exchange rules and interpretations of those rules, which can vary between exchanges. As discussed below,[12] there are regulatory service agreements (''RSAs'') among exchange SROs and FINRA, which have provided benefits to SROs such as lower regulatory costs and have been a component of FINRA's cross-market regulatory program. Importantly, FINRA has the expertise regarding off-exchange trading, but under these RSAs, for non-FINRA members that trade off-exchange and are members of different exchanges, FINRA applies the rules of the different exchanges using the exchanges' interpretations of those rules. This can result in different interpretations and FINRA registration would promote consistent interpretations and efficiencies in enforcement and regulation with respect to this growing part of the market. The rise in electronic proprietary trading and the increasingly fragmented market where trading takes place across many active markets have put pressure on the status quo and persuaded the Commission of the need for there to be more consistent regulation of such trading.

In addition, SROs retain responsibility for regulatory oversight under the RSAs; however, RSAs are voluntary, privately negotiated agreements that can expire or be terminated, and accordingly, these agreements may not in the future provide the stability of FINRA oversight. Further, the Commission, of course, may bring enforcement actions, including pursuant to referrals made by SROs, to

[4] 17 CFR 240.15b9–1(a).

[5] 17 CFR 240.15b9–1(b). The current rule also states that the *de minimis* allowance does not apply to income derived from transactions through the Intermarket Trading System, and defines the term ''Intermarket Trading System'' for purposes of the rule. 17 CFR 240.15b9–1(b)(2) and (c).

[6] ''Off-exchange'' as used herein means any securities transaction that is covered by Section 15(b)(8) of the Exchange Act that is not effected, directly or indirectly, on a national securities exchange. *See* 17 CFR 240.600(b)(45) (defining ''national securities exchange''). Off-exchange trading includes securities transactions that occur through alternative trading systems (''ATSs'') or with another broker or dealer that is not a registered ATS, and is also referred to as over-the-counter (''OTC'') trading. The Commission previously proposed to amend Rule 15b9–1 in 2015. *See* Securities Exchange Act Release No. 74581 (March 25, 2015), 80 FR 18036 (April 2, 2015) (''2015 Proposing Release'' or ''2015 Proposal''). There, the Commission defined the term ''off-exchange'' differently, such that it applied only to transactions in exchange-listed securities that were not effected, directly or indirectly, on a national securities exchange. *Id.* at 80 FR 18037, n. 3. Here, the definition of ''off-exchange'' encompasses transactions that are not effected, directly or indirectly, on a national securities exchange in both exchange-listed securities and securities that are not listed on a national securities exchange, such as U.S. Treasury securities and OTC equity securities, in order to more closely align the definition with the full scope of securities transactions that are covered by Section 15(b)(8) of the Exchange Act.

[7] An SRO is defined, in relevant part, as ''any national securities exchange, registered securities association, or registered clearing agency. . . .'' 15 U.S.C. 78c(a)(26).

[8] *See* Sections 15(b)(8), 15A, 17(d), 19(g) of the Act. 15 U.S.C. 78*o*(b)(8); 15 U.S.C. 78*o*–3; 15 U.S.C. 78q(d); 15 U.S.C. 78s(g). Under the self-regulatory structure, the SRO where a broker-dealer is registered conducts regulatory oversight and assumes responsibility for that oversight. For example, section 19(g)(1) of the Act, among other things, requires every SRO to examine for and enforce compliance by its members and associated persons with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to section 17(d) or section 19(g)(2) of the Act. 15 U.S.C. 78q(d); 15 U.S.C. 78s(g). Section 17(d)(1) of the Act provides that the Commission, in allocating authority among SROs pursuant to Section 17(d)(1), shall ''take into consideration the regulatory capabilities and procedures of the self-regulatory organizations, availability of staff, convenience of location, unnecessary regulatory duplication, and such other factors as the Commission may consider germane to the protection of investors, cooperation and coordination among self-regulatory organizations, and the development of a national market system . . .'' 15 U.S.C. 78q(d)(1). Section 15A of the Act provides for the creation of national securities associations of broker-dealers, with powers to adopt and enforce rules to regulate the off-exchange market. 15 U.S.C. 78*o*–3. And as described above, section 15(b)(8) of the Exchange Act further implements this construct of effective regulatory oversight by requiring Association membership of a broker-dealer unless it effects transactions solely on an exchange of which it is a member. 15 U.S.C. 78*o*(b)(8).

[9] The National Futures Association (''NFA''), as specified in section 15A(k) of the Act, also is registered as a national securities association, but only for the limited purpose of regulating the activities of NFA members that are registered as brokers or dealers in security futures products under Section 15(b)(11) of the Act.

[10] *See* FINRA Rule 0140.

[11] To be consistent with Rule 15b9–1, off-member-exchange securities trading must occur with or through another registered broker-dealer, such as, in the case of trading on an exchange where the firm is not a member, through a broker-dealer that is a member of the exchange.

[12] *See* Section II.B *infra*.

enforce compliance with the Exchange Act and applicable rules. But as is also discussed below,[13] the Exchange Act requires a robust layer of SRO oversight over broker-dealers in addition to the Commission's regulatory role. In light of the extent to which off-member-exchange proprietary trading occurs today, the Commission believes that the SRO layer of oversight should be enhanced by ensuring, as mandated by Section 15(b)(8) of the Act, that an Association generally has direct, membership-based oversight over broker-dealers that effect securities transactions elsewhere than on an exchange where they are a member and the jurisdiction to directly enforce their compliance with Federal securities laws, Commission rules, and Association rules.

The Commission adopted Rule 15b9–1 several decades ago so that an exchange member's limited proprietary trading activity ancillary to its exchange activity—which, at that time, typically was a floor business conducted on a single national securities exchange—would not necessitate Association membership in addition to exchange membership.[14] The Commission deemed it an appropriate exercise of its statutory authority to subject such an exchange member to exchange-only SRO oversight. But as stated above and described below, the securities markets have transformed dramatically and have evolved to include significant, cross-market electronic proprietary trading as a primary business model, and firms engaging in such trading activity that are exempt from Association membership, including important transaction reporting requirements, by virtue of Rule 15b9–1. In this regard, the Commission previously proposed to amend Rule 15b9–1 in 2015.[15] After the 2015 Proposal, FINRA established a transaction reporting regime under which broker-dealers that are FINRA members must report U.S. Treasury securities transactions. Some broker-dealer firms that are not FINRA members are significantly involved in trading U.S. Treasury securities proprietarily but are not required to report these transactions since they are not FINRA members. Moreover, U.S. Treasury securities trading occurs entirely off-exchange, thus these non-FINRA members conduct their U.S. Treasury securities trading activities outside of the direct SRO oversight of any exchange and, since they are not FINRA members, outside of FINRA's direct jurisdiction despite the fact that FINRA is the SRO responsible for the off-exchange market.[16]

The evolution of the markets—since Rule 15b9–1 was adopted and since the Commission's proposed changes to Rule 15b9–1 in 2015—presents a need to realign Rule 15b9–1 with the current market so that the regulatory scheme more appropriately effectuates Exchange Act principles regarding complementary exchange SRO and Association oversight in today's market, including Section 15(b)(9)'s mandate that any exemption from Section 15(b)(8) be consistent with the public interest and protection of investors. Accordingly, the Commission is re-proposing amendments to Rule 15b9–1 that would rescind the *de minimis* allowance and proprietary trading exclusion, which generally would require Association membership, pursuant to Section 15(b)(8) of the Act, for any registered broker or dealer that effects securities transactions elsewhere than on a national securities exchange of which it is a member, subject to narrowed exemptions from Section 15(b)(8)'s Association membership requirement that are applicable to trading activity that is ancillary to the registered broker's or dealer's trading activity on a national securities exchange of which it is a member.[17]

## II. Background

### *A. Current Regulatory Framework*

Self-regulation is a longstanding, key component of U.S. securities industry regulation.[18] All broker-dealers are required to be members of an SRO, which sets standards, conducts examinations, and enforces rules regarding its members.[19] The Exchange Act sets forth a framework for broker-dealer regulation that, in addition to Commission oversight, requires this layer of SRO oversight, pursuant to which SROs act as front-line regulators of their broker-dealer members.[20] Although the Exchange Act provides a limited and targeted exception to Association membership requirements for broker-dealers, its approach to effecting supervision is relatively uniform: broker-dealers must be members of the SROs that regulate the venues upon which they transact.[21] A related, overarching principle in the Exchange Act is that the SRO best positioned to conduct regulatory oversight should assume that responsibility.[22] Correspondingly, SRO oversight of an exchange's members and their trading on the exchange is primarily the responsibility of the exchange, whereas SRO oversight of other trading activity, such as off-exchange trading,[23] is primarily the responsibility of an Association.[24]

This framework is embodied by several Exchange Act statutory provisions. When the Exchange Act was adopted in 1934, the exchanges were the only SROs and were charged with regulating the activities of their broker-dealer members. Congress soon recognized, however, that the benefit of exchange regulation could be undermined by the absence of a

[13] *See* sections II.A and II.B *infra.*

[14] *See infra* note 60 and accompanying text (discussing the adoption of Rule 15b8–1, which was later renumbered to Rule 15b9–1).

[15] *See* 2015 Proposing Release, *supra* note 6.

[16] *See* FINRA Rule 6730—Transaction Reporting, Supplementary Material .07—ATS Identification of Non-FINRA Member Counterparties for Transactions in U.S. Treasury Securities.

[17] This proposal re-proposes, with certain modifications, the amendments to Rule 15b9–1 that the Commission proposed in 2015. *See* 2015 Proposal, *supra* note 6. The 2015 Proposal contains additional background information regarding the regulatory history in this area and Rule 15b9–1. *See* 2015 Proposal, *supra* note 6, 80 FR at 18036–45. Comments received in response to the 2015 Proposing Release are *available at https://www.sec.gov/comments/s7-05-15/s70515.shtml.*

[18] *See* Securities Exchange Act Release No. 50700 (November 18, 2004), 69 FR 71256 (December 8, 2004) (''Concept Release Concerning Self-Regulation'').

[19] *Id.* (citing Section 15(b)(8) of the Act (15 U.S.C. 78*o*15(b)(8))). Congress historically has favored self-regulation for a variety of reasons, including that effectively regulating the inner-workings of the securities industry at the federal level was viewed as cost prohibitive and inefficient; the complexity of securities practices made it desirable for SRO regulatory staff to be intimately involved with SRO rulemaking and enforcement; and the SROs could set standards such as just and equitable principles of trade and detailed proscriptive business conduct standards. *Id.* (citing, generally, S. Rep. No. 1455, 73d Cong., 2d Sess. (1934); H.R. Doc. No. 1383, 73d Cong., 2d Sess. (1934); S. Rep. No. 1455, 73d Cong., 2d Sess. (1934)); *see also id.,* 69 FR at 71257–58.

[20] Broker-dealers registered with the Commission are subject to the Commission's jurisdiction and oversight and must comply with Commission rules applicable to registered broker-dealers. *See, e.g.,* 15 U.S.C. 78*o,* 17 CFR 240.15a–6—240.15b11–1, and 17 CFR 240.17a–1—240.17a–25. Matters related to SRO actions or their broker-dealer members also may be referred to the Commission or subject to Commission review. *See, e.g.,* 15 U.S.C. 78s(d) and 15 U.S.C. 78s(e). But the Exchange Act also requires that SROs enforce their members' compliance with the Exchange Act, the rules and regulations thereunder, and the SRO's own rules. *See, e.g.,* sections 6(b)(1), 19(g)(1), and 15A(b)(2) of the Act (15 U.S.C. 78f(b)(1), 78s(g)(1), 78*o*–3(b)(2)); *see also* section 11A(a)(3)(B) of the Act (15 U.S.C. 78k–1(a)(3)(B)) (authorizing the Commission to require SROs to act jointly in planning, developing, operating, or regulating the national market system).

[21] *See* 2015 Proposal, *supra* note 6, 80 FR at 18039.

[22] *See supra* note 8.

[23] *See supra* note 6.

[24] References herein to ''exchange'' or ''national securities exchange'' are to a national securities exchange that is registered with the Commission pursuant to section 6 of the Exchange Act. References herein to ''broker'' or ''dealer'' or ''broker-dealer'' are to a broker or dealer that is registered with the Commission pursuant to section 15 of the Exchange Act.

complementary regulatory framework for the off-exchange market. Consequently, in 1938, the Maloney Act established the concept of and regulatory framework for Associations under Section 15A of the Exchange Act. The Maloney Act states in its preamble that its purpose is ''[t]o provide for the establishment of a mechanism of regulation among over-the-counter brokers and dealers operating in interstate and foreign commerce or through the mails, to prevent acts and practices inconsistent with just and equitable principles of trade, and for other purposes.'' [25] In 1964, Congress passed Section 15(b)(8) of the Exchange Act, which currently requires that a registered broker or dealer join an Association unless it effects transactions solely on an exchange of which it is a member.[26]

Additional statutory provisions contemplate coordination of broker-dealer oversight among SROs. Section 19(g)(1) of the Exchange Act requires every SRO to examine for and enforce compliance by its members and associated persons with the Exchange Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.[27] With respect to a broker or dealer that is a member of more than one SRO (''common member''), Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with the applicable statutes, rules, and regulations, or to perform other specified regulatory functions.[28] Without this relief, the statutory obligation of each SRO would result in duplicative examinations and oversight of common members.[29] Section 17(d)(1) of the Act provides that the Commission, in allocating authority among SROs, shall ''take into consideration the regulatory capabilities and procedures of the self-regulatory organizations, availability of staff, convenience of location, unnecessary regulatory duplication, and such other factors as the Commission may consider germane to the protection of investors, cooperation and coordination among self-regulatory organizations, and the development of a national market system . . . .'' [30] Among the SROs to which oversight responsibility is allocated pursuant to 17d–2 plans, FINRA, as the only registered Association currently, has coordinated with exchanges in the exercise of SRO oversight over broker-dealers that are common members of FINRA and the exchanges on which they trade securities.[31]

FINRA, however, is primarily responsible for exercising SRO oversight over broker-dealers' off-member-exchange securities trading activities, such as when broker-dealers effect securities transactions across markets that include exchanges where they are not a member or the off-exchange market.[32] In particular, FINRA regulates off-exchange trading of equities, fixed income (including U.S. Treasury) securities, and other products, and investigates and brings enforcement actions against members for violations of its rules, the rules of the Municipal Securities Rulemaking Board, and the Exchange Act and the Commission rules thereunder.[33] FINRA also conducts the vast majority of broker and dealer examinations,[34] and mandates broker and dealer disclosures.[35] FINRA also has developed rules and guidance tailored to trading activity,[36] and has developed surveillance technology and specialized regulatory personnel to provide surveillance, supervision, and enforcement of FINRA rules and the federal securities laws applicable to activity occurring off-exchange.[37]

[25] *See* Public Law 75–719, 52 Stat. 1070 (1938).

[26] As discussed in greater detail in the 2015 Proposal, section 15(b)(8) as originally enacted, and Rule 15b9–1 as originally adopted by the Commission (which was Rule 15b8–1 at that time and later re-designated as Rule 15b9–1) provided for direct Commission oversight of broker-dealers that effected transactions off-exchange as an alternative to joining an Association. In 1983, Congress amended the Act to eliminate the direct oversight of broker-dealers by the Commission and affirmed the benefits of self-regulation of broker-dealers directly by an Association. *See* 2015 Proposal, 63 FR at 18039–41; *see also* 15 U.S.C. 78*o*(b)(8), as amended by Public Law 98–38, 97 Stat. 205, 206 (1983); H.R. Rep. No. 98–106, at 597 (1983) (citing a preference for self-regulation over direct regulation by the Commission and noting, among other benefits of self-regulation, that the National Association of Securities Dealers (''NASD''), FINRA's predecessor, had available a broader and more effective range of disciplinary sanctions to employ against broker-dealers than had the Commission).

[27] 15 U.S.C. 78q(d) and 78s(g)(2).

[28] 15 U.S.C. 78q(d)(1).

[29] In the Exchange Act Amendments of 1975 (Pub. L. 94–29, 89 Stat. 97 (1975), the ''1975 Amendments''), Congress recognized that, at the time, the allocation of self-regulatory responsibilities among SROs resulted in some cases in duplicative regulation of firms that were members of multiple SROs and varying standards, both in substance and enforcement, among SROs. S. Doc. No. 93–13 at 164–165 (1973). As a result, Congress adopted Section 17(d) of the Act, which provides the Commission with the authority to allocate regulatory responsibilities among SROs with respect to matters as to which, in the absence of such allocation, such SROs would share authority. 15 U.S.C. 78q(d).

[30] 15 U.S.C. 78q(d)(1). To implement section 17(d)(1), the Commission adopted Rules 17d–1 and 17d–2 under the Act. 17 CFR 240.17d–1 and 17 CFR 240.17d–2. Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules. *See* Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976). To address regulatory duplication in areas other than financial responsibility, including sales practices and trading practices, the Commission adopted Rule 17d–2 under the Act. *See* Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976). Rule 17d–2 permits SROs to propose joint plans among two or more SROs for the allocation of regulatory responsibility with respect to their common members. 17 CFR 240.17d–2. The regulatory responsibility allocated among SROs only extends to matters for which the SROs would share authority, which means that only common rules among SROs can be allocated under Rule 17d–2. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after appropriate notice and opportunity for comment, it finds that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among SROs, or to remove impediments to and foster the development of a national market system and a national clearance and settlement system and in conformity with the factors set forth in Section 17(d) of the Act. *Id.* Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

[31] *See* Staff of the Division of Trading and Markets, ''Staff Paper on Cross-Market Regulatory Coordination,'' (Dec. 15, 2020) (*available at https://www.sec.gov/tm/staff-paper-cross-market-regulatory-coordination*) (''Cross-Market Regulatory Coordination Staff Paper''). Staff reports and other staff documents (including those cited herein) represent the views of Commission staff and are not a rule, regulation, or statement of the Commission. The Commission has neither approved nor disapproved the content of these staff documents and, like all staff statements, they have no legal force or effect, do not alter or amend applicable law, and create no new or additional obligations for any person.

[32] *See* Public Law 75–719, 52 Stat. 1070 (1938). Although FINRA is the sole Association, the statute does not limit the number of Associations.

[33] 15 U.S.C. 78*o*–3.

[34] Routine broker and dealer examinations are conducted by the exchange SROs as well, and the Commission staff oversees the examination efforts of all SROs. In addition, the Commission staff also conducts risk-based examinations of brokers and dealers.

[35] 15 U.S.C. 78*o*–3. *See, e.g.,* FINRA Rules 3130 (Annual Certification of Compliance and Supervisory Processes), 4120 (Regulatory Notification and Business Curtailment), 4530 (Reporting Requirements), 4540 (Reporting Requirements for Clearing Firms), 4560 (Short-Interest Reporting), and 6439 (Requirements for Member Inter-Dealer Quotation Systems).

[36] *See, e.g.,* FINRA Rules 5240 (Anti-Intimidation/Coordination), 5250 (Payments for Market Making), 5210.02 (Publication of Transactions and Quotations—Self-Trades), and 6140 (Other Trading Practices). Exchanges have similar rules. *See, e.g.,* NYSE Rules 4560 and 6140; Nasdaq Rules 5240 and 5250.

[37] *See* FINRA.org, FINRA 2021 Annual Financial Report, *available at https://www.finra.org/sites/default/files/2022-06/2021-FINRA-Financial-Annual-Report.pdf* (last visited July 22, 2022).

Further, FINRA has a detailed set of member conduct rules that apply to all activities of a FINRA member firm, whether on- or off-exchange.[38]

In addition, FINRA has rules that support a comprehensive public transparency regime with respect to off-exchange securities transactions. One element of this regime is the requirement that FINRA members report to FINRA all OTC Equity Security trades [39] and off-exchange NMS stock trades,[40] in connection with which FINRA has developed a detailed set of trade reporting rules.[41] This transaction information then becomes publicly available.[42] FINRA also maintains the Trade Reporting and Compliance Engine (''TRACE'') reporting system for fixed income securities.[43] FINRA introduced TRACE reporting requirements for U.S. Treasury securities transactions in 2017, which has enhanced the regulatory audit trail in that market.[44] FINRA publishes weekly aggregated transaction information and statistics on U.S. Treasury securities on its website.[45]

In contrast to FINRA, the regulatory focus of national securities exchanges, which are also SROs, is generally on trading by their members on their respective exchanges.[46] Exchanges generally monitor market activity specific to their own exchanges and have expertise in regulating unique aspects of their markets.[47] For example, exchange rules typically regulate, among other things, the opening and closing of trading on the exchange; [48] exchange order types and order handling; [49] member application processes and ongoing member requirements; [50] listings; [51] investigations, complaints, disciplinary action and the related appeals process; [52] as well as member conduct generally.[53] In many cases, exchange rules are similar to FINRA rules or incorporate FINRA rules by reference.[54]

In addition, exchanges have entered into 17d–2 plans that allocate to FINRA examination and enforcement responsibility relating to compliance by common members with Federal securities laws, Commission rules, and common exchange and FINRA rules, allowing the exchanges to focus on trading on their own markets. For example, under a 17d–2 plan for the allocation of regulatory responsibility relating to Regulation NMS rules, FINRA is responsible for overseeing and enforcing compliance with certain Regulation NMS rules by common members of FINRA and any exchange participant in the agreement, while each exchange retains responsibility for surveillance and enforcement with respect to trading activities or practices

[38] *See* FINRA Rule 2000 Series—Duties and Conflicts.

[39] *See* FINRA Rule 6420(f) (defining ''OTC Equity Security'' to mean any equity security that is not an ''NMS stock'' as that term is defined in Rule 600(b) of SEC Regulation NMS; provided, however, that the term ''OTC Equity Security'' shall not include any Restricted Equity Security). *See also* FINRA Rule 6420(k) (defining ''Restricted Equity Security'' to mean any equity security that meets the definition of ''restricted security'' as contained in Securities Act Rule 144(a)(3)); 17 CFR 242.600(b) (defining ''NMS stock'' as any NMS security other than an option, and defining ''NMS security'' as any security or class of securities for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan, or an effective national market system plan for reporting transactions in listed options). FINRA members are required to report transactions (other than transactions executed on or through an exchange) in OTC Equity Securities and Restricted Equity Securities to FINRA's OTC Reporting Facility (''ORF''). *See* FINRA Rules 6410 and 6610; *see also* FINRA Rule 6420(n) (defining ''OTC Reporting Facility'' as the service provided by FINRA that accommodates reporting for trades in OTC Equity Securities executed other than on or through an exchange and for trades in Restricted Equity Securities effected under Securities Act Rule 144A and dissemination of last sale reports).

[40] *See* FINRA Rule 6110 and the FINRA Rule 6000 Series generally—Quotation, Order, and Transaction Reporting Facilities. FINRA operates two Trade Reporting Facilities (''TRFs''), one jointly with Nasdaq and another with the NYSE. The TRFs are FINRA facilities for FINRA members to report NMS stock transactions effected otherwise than on an exchange. *See* Exchange Act Release No. 54084 (June 30, 2006), 71 FR 38935 (July 10, 2006) (order approving the Nasdaq TRF); Exchange Act Release No. 55325 (February 21, 2007), 72 FR 8820 (February 27, 2007) (notice of filing and immediate effectiveness of a proposed rule change to establish the NYSE TRF). In addition, FINRA operates the Alternative Display Facility (''ADF'') for NMS stocks, which is a FINRA facility for posting quotes and reporting trades governed by FINRA's trade reporting rules. *See* Exchange Act Release No. 46249 (July 24, 2002), 67 FR 49821 (July 31, 2002) (order approving the ADF); *see also* Exchange Act Release No. 71467 (February 3, 2014), 79 FR 7485 (February 7, 2014) (order approving a proposed rule change to update the rules governing the ADF).

[41] *See* FINRA Rule 6000 Series—Quotation, Order, and Transaction Reporting Facilities, *supra* note 40; and FINRA Rule 7000 Series—Clearing, Transaction and Order Data Requirements, and Facility Charges.

[42] Pursuant to effective national market system plans which are also effective transaction reporting plans (as both terms are defined in Rule 600(b) of Regulation NMS), namely the Nasdaq UTP Plan and the CTA Plan, FINRA reports to the Securities Information Processors (''SIPs'') information for off-exchange NMS stock transactions that are reported to FINRA's TRFs, and the SIPs in turn distribute the information in the public consolidated market data feeds. *See* section VIII(a) of the CTA Plan and section VIII.B of the Nasdaq UTP Plan. In addition, currently, Nasdaq UTP Plan Level 1 subscribers can obtain the OTC Equity Security transaction information that is reported to FINRA's ORF and disseminated under the FINRA—Trade Data Dissemination Service (TDDS). *See* UTPPlan.com, UTP Plan Administration Data Request Form, *available at https://www.utpplan.com/DOC/UTP_Data_Feed_Request.pdf* (last visited July 22, 2022) (stating that direct access subscribers may request FINRA OTC Data (FINRA OTC Equity Securities Rule 6400) as part of the Nasdaq UTP Plan Level 1 service).

[43] *See* FINRA Rule 6700 Series.

[44] *See* Securities Exchange Act Release No. 79116 (October 18, 2016), 81 FR 73167 (October 24, 2016) (File No. SR–FINRA–2016–027).

[45] *See* FINRA.org, Treasury Aggregate Statistics, *available at https://www.finra.org/finra-data/browse-catalog/treasury-weekly-aggregates* (last visited July 22, 2022). The information is aggregated by security subtype: Bills, Floating Rate Notes (FRN), Nominal Coupons and Treasury Inflation-Protected Securities (TIPS). The data is further grouped into ''ATS and Interdealer,'' ''Dealer-to-Customer,'' and ''Total'' categories. For Nominal Coupons and TIPS, the report also shows remaining maturity and on-the-run/off-the-run groupings. *See also* FINRA Rule 6750—Dissemination of Transaction Information, Supplementary Material .01(b). FINRA recently proposed to publish aggregated U.S. Treasury securities transaction information and statistics more frequently, such as on a daily basis. *See* Securities Exchange Act Release No. 95165 (June 27, 2022), 87 FR 39573 (July 1, 2022) (File No. SR–FINRA–2022–017).

[46] Congress saw the codification of regulations requiring the registration of off-exchange brokers and dealers as ''an essential supplement to regulation of the exchanges.'' H.R. Rep. No. 74–2601, at 4 (1936). In addition, in advance of the 1975 Amendments, Congress contemplated reforms to the regulatory structure of the securities markets in which an Association's role would be expanded, while exchanges would focus their regulatory activities on their respective markets: ''the time has come to begin planning a framework which will guide the development of the self-regulatory system in the future. In the revised system, a single nationwide entity [an Association] would be responsible for regulation of the retail end of the securities business, including such matters as financial responsibility and selling practices, while each exchange would concentrate on regulating the use of its own trading facilities . . . the regulatory activities of the NASD (the only organization presently registered as a national securities association) would encompass many of the present regulatory activities of the NYSE and other exchanges over retail activities of their members. This 'expanded' NASD would have direct responsibility, subject to SEC oversight, for enforcing SEC rules and its own rules . . .'' S. Doc. No. 93–13 at 16, 169 (1973). *See also* 2015 Proposing Release, *supra* note 6, 80 FR 18039 at note 28 and accompanying text. In 2007, the Commission approved changes that consolidated the member firm regulatory functions of the NASD, an Association, and NYSE Regulation, Inc., and changed the name of the combined entity to FINRA. *See* Exchange Act Release No. 56145 (July 26, 2007), 72 FR 42169 (August 1, 2007).

[47] *See* Cross-Market Regulatory Coordination Staff Paper, *supra* note 31.

[48] *See, e.g.,* NYSE Rule 7.35 Series—Auctions.

[49] *See, e.g.,* Nasdaq Rule 4702—Order Types and Nasdaq Rule 4703—Order Attributes.

[50] *See, e.g.,* Cboe Rulebook Chapter 3—TPH Membership, Registration, and Participants.

[51] *See, e.g.,* IEX Rulebook Chapter 14—IEX Listing Rules.

[52] Typically, exchange rules regarding investigations, complaints, disciplinary actions, and appeals apply to the conduct of members (and associated persons) for violations of exchange rules and federal securities laws and regulations that the exchange has jurisdiction to enforce. *See, e.g.,* Cboe Rule 13.1; IEX Rule 9.110(a); MIAX Chapter X, Rule 1000; Nasdaq Rule General 5, 9110(d); and Nasdaq PHLX Rule General 5, Section 1.

[53] *See, e.g.,* NYSE Rules 2010—7470—Conduct Rules.

[54] *See, e.g.,* NYSE Rules 4110 and 4140, and FINRA Rules 4110 and 4140; and Nasdaq General 9 (Regulation) (incorporating by reference various FINRA rules).

involving its own marketplace.[55] Most exchanges and FINRA also have entered into RSAs, which are privately negotiated agreements between two SROs whereby one SRO agrees to perform regulatory services on behalf of another SRO in exchange for compensation.[56]

In addition to regulatory coordination that occurs through 17d–2 plans and RSAs, SROs also coordinate regulatory efforts through forums provided by the Intermarket Surveillance Group (''ISG''). The ISG, created in 1981, is an international group of exchanges, market centers, and regulators that perform market surveillance in their respective jurisdictions.[57] The ISG's focus is regulatory information sharing and coordination for both domestic and foreign regulators.[58] Pursuant to its charter, one of the ISG's purposes is ''the coordination and development of programs and procedures designed to assist in identifying possible fraudulent and manipulative acts and practices across markets, where possible, particularly between markets which trade the same or related or derivative Financial Instruments[.]'' [59]

*B. Need for Amendment*

The Commission originally adopted Rule 15b8–1 in 1965 (renumbered to Rule 15b9–1 in 1983 and generally referred to herein as Rule 15b9–1) to allow exchange specialists and other floor members to receive a portion of the commissions paid on occasional off-exchange transactions referred to other broker-dealers, up to a nominal amount.[60] The original version of Rule 15b9–1 included the *de minimis* allowance but not the proprietary trading exclusion. The Commission adopted the proprietary trading exclusion in 1976 to accommodate regional exchange specialists that, as part of their floor-based business, might have needed to lay off positions and hedge risk on the primary listing exchange through a member of that exchange.[61] These exchange specialists and floor brokers typically were members of a single exchange, and the circumstances under which they would trade proprietarily off-exchange were quite limited.[62] Taken together, the historical purpose of Rule 15b9–1's *de minimis* allowance and proprietary trading exclusion was to accommodate limited broker-dealer trading activities that were ancillary to a floor-based business on a single exchange while preserving the traditional role of the exchange as the entity best suited to regulate member conduct on the exchange.

Since that time, the securities markets have undergone a substantial transformation that has been driven primarily by rapid and ongoing evolution of technologies for generating, routing, and executing orders, and the impact of regulatory changes.[63] Today, trading in the U.S. securities markets is highly automated, dispersed among myriad trading centers, and substantially more complex.[64] Trading is spread among a number of highly automated trading centers—24 registered exchanges,[65] 33 ATSs that trade NMS stocks,[66] at least 2 ATSs that trade U.S. Treasury securities,[67] and nearly 200 OTC market-makers [68]—and the routing and re-routing of orders to multiple venues is common. Moreover, new types of proprietary trading firms have emerged, including those that engage in so-called high-frequency trading strategies. These firms tend to effect transactions across the full range of exchange and off-exchange markets, including ATSs. They also typically use complex electronic trading strategies and sophisticated technology to generate a large volume of orders and

[55] *See, e.g.,* Exchange Act Release Nos. 63220 (November 2, 2010), 75 FR 68632 (November 8, 2010) and 63430 (December 3, 2010), 75 FR 76758 (December 9, 2010). In addition, generally, FINRA is the DEA for financial responsibility rules for exchange members that also are members of FINRA. *See infra* notes 227–228 and accompanying text (discussing DEAs). *See also* Cross-Market Regulatory Coordination Staff Paper, *supra* note 31 (stating that ''FINRA serves as the Designated Regulation NMS Examining Authority (''DREA'') and Designated CAT Surveillance Authority (''DCSA'') for common exchange members that are also members of FINRA, and assumes certain examination and enforcement responsibilities for those members with respect to specified Regulation NMS rules (*i.e.,* 606, 607, 611, 612 and 613(g)(2)), and for the cross-market surveillance, examination, investigation and enforcement of Rule 613 and the rules of the SROs regarding compliance with the CAT NMS Plan.'').

[56] *See* Cross-Market Regulatory Coordination Staff Paper, *supra* note 31.

[57] *See id.*

[58] *See id.*

[59] *See id.*

[60] *See* Qualifications and Fees Relating to Brokers or Dealers Who Are Not Members of National Security [sic] Association, Exchange Act Release No. 7697 (September 7, 1965), 30 FR 11673 (September 11, 1965) (''Qualifications and Fees Release''). The Commission stated: ''Among the broker-dealers that are not members of a registered national securities association are several specialists and other floor members of national securities exchanges, some of whom introduce accounts to other members. The over-the-counter business of these broker-dealers may be limited to receipt of a portion of the commissions paid on occasional over-the-counter transactions in these introduced accounts, and to certain other transactions incidental to their activities as specialists. In most cases, the income derived from these activities is nominal.'' *Id.* at 11675.

[61] *See* Extension of Temporary Rules 23a–1(T) and 23a–2(T); Adoption of Amendments to SECO Rules, Securities Exchange Act Release No. 12160 (March 3, 1976), 41 FR 10599 (March 12, 1976) (''Adoption of Amendments to SECO Rules''). In adopting the proprietary trading exclusion, the Commission indicated that an exchange floor broker, through another broker or dealer, could effect transactions for its own account on an exchange of which it was not a member. *Id.* at 10600. The Commission noted that such transactions ultimately would be effected by a member of that exchange. In 1983, the Commission further amended Rule 15b9–1 to accommodate transactions effected through the new Intermarket Trading System linkage, and eliminated references to, and requirements under, the SECO Program. *See* SECO Programs; Direct Regulation of Certain Broker-Dealers; Elimination, Exchange Act Release No. 20409 (November 22, 1983), 48 FR 53688 (November 29, 1983) (''SECO Programs Release'').

[62] In the Special Study of the Securities Markets in 1963, the Commission described how regional exchange specialists reduced their exposure, including by offsetting positions on other exchanges. The Commission noted that ''[s]pecialists on the Boston, Philadelphia-Baltimore-Washington, Pittsburgh, and Montreal stock exchange are in communication with each other by direct wires linking their floors and each may trade on the other exchanges at member rates'' and ''[s]pecialists who are sole members [of an exchange] also offset [their positions] with over-the-counter houses dealing in listed securities. Many of the offsetting transactions are done on the primary market, the NYSE, with the [specialist] buying or selling on that exchange as his needs dictate.'' Report of Special Study of Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 88–95, at 935 (1963) (''Special Study''). The Commission believes that the business of regional exchange specialists was substantially the same when the proprietary trading exclusion in Rule 15b9–1 was adopted in 1976.

[63] *See* Securities Exchange Act Release No. 61358 (January 14, 2010), 75 FR 3594 (January 21, 2010) (Concept Release on Equity Market Structure) (''Equity Market Structure Concept Release''), at 3594 (''Changes in market structure also reflect the markets' response to regulatory actions such as Regulation NMS, adopted in 2005, the Order Handling Rules, adopted in 1996, as well as enforcement actions, such as those addressing anti-competitive behavior by market makers in NASDAQ stocks.'').

[64] *See* Equity Market Structure Concept Release, *supra* note 63. *See also* 2015 Proposing Release, *supra* note 6.

[65] There are 8 registered exchanges that only trade equities and 8 registered exchanges that only trade options. In addition, there are 8 registered exchanges that trade both equities and options.

[66] *See* 17 CFR 242.300 (defining the terms ''alternative trading system'' and ''NMS Stock ATS''). This data was compiled from Forms ATS–N filed with the Commission as of July 22, 2022, *available at https://www.sec.gov/divisions/marketreg/form-ats-n-filings.htm.*

[67] *See* U.S. Dep't of the Treasury et al., Joint Staff Report: The U.S. Treasury Market on October 15, 2014 (July 13, 2015) (the ''Joint Staff Report''). The Joint Staff Report noted that SEC rules applicable to ATSs do not apply to ATSs through which only government securities are traded, although such venues may voluntarily adopt such standards. Since the Joint Staff Report was issued, however, the Commission has proposed to amend Regulation ATS to include ATSs through which only government securities are traded. *See* Securities Exchange Act Release No. 94062 (January 26, 2022), 87 FR 15496 (March 18, 2022).

[68] Nearly 200 brokers or dealers (excluding ATSs) have identified themselves to FINRA as market centers that must provide monthly reports on order execution quality under Rule 605 of Regulation NMS (list *available at http://www.finra.org/industry/market-centers*).

transactions throughout the national market system.[69]

In fact, the large-scale proprietary trading that occurs in the securities markets today is not confined to equities and options. For example, there is significant automated proprietary trading in U.S. Treasury securities, which are not traded on any national securities exchange.[70] As noted in the Joint Staff Report, proprietary trading firms, or principal trading firms (''PTF(s)'') as they are also called, account for a majority of trading and market depth in the electronic interdealer U.S. Treasury securities market.[71] The Joint Staff Report called for certain U.S. Treasury securities market reforms such as an assessment of the public reporting on U.S. Treasury securities market venue policies and services and a review of possible post-trade transaction reporting by government securities broker-dealers and banks. In 2016, an inter-agency working group comprising staff of the Treasury Department, Commission, Commodity Futures Trading Commission, Federal Reserve Bank of New York, and Board of Governors of the Federal Reserve System stated that it ''will continue to assess effective means to ensure that the collection of data regarding Treasury cash securities market transactions is comprehensive and includes information from institutions that are that not FINRA members.'' [72] Subsequently, FINRA introduced TRACE reporting for U.S. Treasury securities in 2017.[73]

The Commission estimates that, as of the end of 2021, there were 66 firms that were Commission-registered broker-dealers and exchange members but not FINRA members, and that there were 65 such firms as of April 2022.[74] Many of these firms were members of just one exchange while others were members of multiple exchanges.[75] Specifically, as of April 2022, 21 of the 65 identified firms were single exchange members; 10 of the firms were members of two exchanges; 13 of the firms were members of more than two but 10 or fewer exchanges; and the remainder were members of more than 10 exchanges.[76]

Several of these firms—both single-exchange and multiple-exchange members—engage in cross-market and off-exchange proprietary securities trading. These firms account for a significant portion of off-exchange securities trading volume and initiate a significant number of securities transactions on exchanges other than exchanges to which they belong as a member.[77] They forgo FINRA membership presumably in reliance on Rule 15b9–1, as their effectuation of transactions in securities elsewhere than on exchanges to which they belong as a member would trigger Section 15(b)(8)'s Association membership requirement but for the exemption provided by Rule 15b9–1.

For example, of the estimated 66 broker-dealers that were exchange members but not FINRA members as of the end of 2021, 47 initiated orders in listed equities in September 2021 that were executed on or off an exchange.[78] These firms' September 2021 off-exchange listed equities dollar volume executed was approximately $789 billion,[79] which was approximately 9.8% of total off-exchange volume of listed equities executed that month.[80] Moreover, these firms' September 2021 listed equities dollar volume executed on exchanges of which they are not a member was approximately $592 billion.[81]

Of the estimated 65 broker-dealers that were exchange members but not FINRA members as of April 2022, 43 initiated orders in listed equities in April 2022 that were executed on or off an exchange.[82] These firms' April 2022 off-exchange listed equities dollar volume executed was approximately $441 billion,[83] which was approximately 4.6% of total off-exchange volume of listed equities executed that month.[84] Moreover, these firms' April 2022 listed equities dollar volume executed on exchanges of which they are not a member was approximately $475 billion.[85]

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[69] Many, but not all, proprietary trading firms are often characterized by: (1) the use of extraordinarily high-speed and sophisticated computer programs for generating, routing, and executing orders; (2) the use of co-location services and individual data feeds offered by exchanges and others to minimize network and other types of latencies; (3) the use of very short time-frames for establishing and liquidating positions; (4) the submission of numerous orders that are cancelled shortly after submission; and (5) ending the trading day in as close to a flat position as possible (that is, not carrying significant, unhedged positions overnight). *See* Equity Market Structure Concept Release, *supra* note 63, 75 FR at 3606. *See also* Staff of the Division of Trading and Markets, ''Equity Market Structure Literature Review, Part II: High Frequency Trading,'' at 4–5 (March 18, 2014) (*available at* ≤ *http://www.sec.gov/marketstructure/research/hft_lit_review_march_2014.pdf*).

[70] The secondary market for U.S. Treasury securities (sometimes referred to as the U.S. Treasury cash market) is generally bifurcated between the dealer-to-customer market and the interdealer market. Trading in the U.S. Treasury securities dealer-to-customer market is generally conducted through bilateral transactions. Trading often occurs either over the phone or on trading venues that facilitate the matching of buy and sell orders through electronic systems. In the interdealer market, the majority of trading in on-the-run U.S. Treasury securities currently occurs on ATSs using electronic central limit order books. For off-the-run U.S. Treasury securities, the majority of interdealer trading occurs via bilateral transactions through voice-assisted brokers and electronic trading platforms. *See* Securities Exchange Act Release No. 90019 (September 28, 2020), 85 FR 87106, 87108 (December 21, 2020). On-the-run U.S. Treasury securities are the most recently issued U.S Treasury securities of a particular maturity. Off-the-run U.S. Treasury securities include all U.S. Treasury securities that have been issued before the most recent issuance and are still outstanding.

[71] *See* Joint Staff Report, *supra* note 67, at 36. In addition, in 2020, staff at the Board of Governors of the Federal Reserve published a paper estimating that PTFs account for 61% of the trading activity on interdealer broker platforms. *See* FEDS Notes, ''Principal Trading Firm Activity in Treasury Cash Markets,'' James Collin Harkrader and Michael Puglia (Aug. 4, 2020) (citing data presented at the 2019 U.S. Treasury Market Conference showing that PTFs averaged approximately 61% of total trading volume on electronic interdealer broker platforms).

[72] *See* press release, U.S. Dep't of the Treasury et al., Statement Regarding Progress on the Review of the U.S. Treasury Market Structure since the July 2015 Joint Staff Report (August 2, 2016) *available at https://www.sec.gov/news/pressrelease/2016-155.html.*

[73] *See supra* note 44.

[74] *See FINRA.org*, Non-Member List, *available at https://nonmembers.finra.org/ReportableNonMembersList.txt* or *http://web.archive.org/web/20210722022409/https:/nonmembers.finra.org/ReportableNonMembersList.txt* (last visited July 22, 2022). The Commission notes that the figures set forth herein are impacted by changes in FINRA membership. For example, a registered broker-dealer that was not a FINRA member as of 2021 joined FINRA in early 2022 and is not included among the 65 firms identified as registered broker-dealers and exchange members but not FINRA members as of April 2022.

[75] Source: FINRA Central Registration Depository (CRD).

[76] *Id.*

[77] Source: Consolidated Audit Trail.

[78] *Id.* A firm ''initiating'' an order is the firm that reports the origination of the order as a New Order Event (MENO) to the Consolidated Audit Trail. The other 19 firms did not initiate orders in listed equities in September 2021.

[79] *Id.* Dollar volumes set forth in this section represent the sum of bought and sold volume during the specified time period.

[80] *Id.* The Commission estimates that there was approximately $8 trillion in total off-exchange transaction volume in listed equities reported by buying and selling firms in September 2021.

[81] *Id.* The Commission also estimates that, in 2021, 50 of the 66 firms identified as registered broker-dealers and exchange members but not FINRA members initiated options order executions accounting for approximately 15–20% of daily options contract volume traded. The Commission further estimates that 36 of these 50 firms initiated executions on an exchange where they are not a member, and that this transaction volume represented approximately 3% of these 36 firms' total options contract transaction volume reported in 2021, and approximately 1% of all options contract transaction volume reported in 2021. *Id.*

[82] *Id.* The other 22 firms did not initiate orders in listed equities in April 2022.

[83] *Id.*

[84] *Id.* The Commission estimates that there was approximately $9.5 trillion in total off-exchange transaction volume in listed equities reported by buying and selling firms in April 2022.

[85] Source: Consolidated Audit Trail. *See also* Table 1, Section VI.A.1, *infra,* for additional detail regarding these firms' trading activity during the noted time periods.

There is also a high degree of concentration of this volume among a subset of the identified firms. In this regard, the Commission estimates that, as of September 2021, 13 of the 47 identified firms that initiated orders in listed equities then accounted for approximately 9.3% of total off-exchange listed equities volume executed in September 2021 and 94% of the off-exchange listed equities transaction volume attributable to the 47 identified firms that month.[86] Two of the 13 firms initiated $528 billion in off-exchange listed equities executions in September 2021, which was 6.6% of total off-exchange listed equities transaction volume that month and approximately two-thirds of the off-exchange volume executions attributable to the 47 identified firms.[87] With respect to the 47 firms' listed equities transaction volume on exchanges of which they are not a member, just one firm accounted for approximately 78% of the $592 billion in volume attributable to the 47 identified firms in September 2021; four firms (including the aforementioned one) accounted for approximately 90% of that volume; and 18 firms (including the aforementioned four firms) accounted for approximately 99% of that volume.[88]

The Commission also estimates that, as of April 2022, 12 of the 43 identified firms that initiated orders in listed equities then accounted for approximately 4.25% of total off-exchange listed equities volume executed in April 2022 and 91.6% of the off-exchange listed equities transaction volume attributable to the 43 identified firms that month.[89] One of the 12 firms initiated $241 billion in off-exchange listed equities executions in April 2022, which was 2.54% of total off-exchange listed equities transaction volume that month and approximately one-half of the off-exchange volume executions attributable to the 43 identified firms.[90] With respect to the 43 firms' listed equities transaction volume on exchanges of which they are not a member, just one firm accounted for approximately 72% of the $475 billion in volume attributable to the 43 identified firms in April 2022; five firms (including the aforementioned one) accounted for approximately 91% of that volume; and 18 firms (including the aforementioned four firms) accounted for approximately 99% of that volume.[91]

With respect to trading in U.S. Treasury securities, all of which occurs off-exchange,[92] the Commission estimates that four of the 66 broker-dealers that were exchange members but not FINRA members accounted for over $7 trillion in U.S. Treasury securities volume executed on ''covered ATSs'' in 2021 that was reported to TRACE,[93] which was over 2% of total U.S Treasury securities volume traded in 2021 that was reported to TRACE.[94] In April 2022, the Commission estimates that three of the 65 broker-dealers that were exchange members but not FINRA members accounted for over $700 billion in U.S. Treasury securities volume executed on covered ATSs that was reported to TRACE,[95] which was approximately 2.5% of total U.S Treasury securities volume traded in April 2022 that was reported to TRACE.[96]

Due to the evolution of the securities markets since Rule 15b9–1 was adopted, the Commission preliminarily believes that the rule's effect has become dislodged from the rule's intended purpose. The underlying presumption built into Rule 15b9–1's *de minimis* allowance and proprietary trading exclusion was that Association membership should not be required where a broker-dealer engaged in limited trading activities elsewhere than its member exchange that were ancillary to its trading business on its member exchange.[97] Since the Commission adopted Rule 15b9–1 in 1965 and then the proprietary trading exclusion in 1976, the securities markets have transformed dramatically, securities trading has become dispersed among myriad trading centers, and firms today frequently trade securities proprietarily and electronically across those trading centers, including on exchanges where they are not a member and off-exchange. Moreover, today, unlike forty years ago, there is extensive off-exchange proprietary trading activity conducted electronically in the U.S. Treasury securities market, and a transaction reporting regime for U.S. Treasury securities transactions that stems from Association membership. Put simply, the underlying tenet of Rule 15b9–1's *de minimis* allowance and proprietary trading exclusion no longer holds true in light of the emergence of the modern-day broker-dealer that trades securities proprietarily.

Indeed, as reflected by the figures set forth above, some dealer firms are able to engage in substantial proprietary securities trading activity elsewhere than their member exchange(s) without becoming FINRA members, in reliance on Rule 15b9–1. These firms are not all subject to the same set of rules and interpretations, which can vary between exchanges. Importantly, FINRA has the expertise regarding off-exchange trading, but under the current regulatory structure underpinning Rule 15b9–1, for non-FINRA members that trade off-exchange and are members of different exchanges, FINRA applies the rules of the different exchanges using the exchanges' interpretations of those rules. This can result in different interpretations and FINRA registration would promote consistent interpretations and efficiencies in enforcement and regulation with respect to this growing part of the market. The rise in electronic proprietary trading and an increasingly fragmented market where trading takes place across many active markets have put pressure on the status quo and presented a need for there to be more consistent regulation of such trading. As a result, the Commission preliminarily believes that the exemption from FINRA oversight provided by Rule 15b9–1 should be limited.

In particular, there are Federal securities laws, Commission rules, and SRO rules that prohibit various forms of improper activity by broker-dealers.[98] SROs are required to examine for and enforce compliance by their members

[86] Source: Consolidated Audit Trail.

[87] *Id.*

[88] *Id.*

[89] *Id.*

[90] *Id.*

[91] *Id.*

[92] *See* Joint Staff Report, *supra* note 67, at 2; *see also supra* note 70.

[93] *See* FINRA Rule 6730(a)(1) (requiring FINRA members to report transactions in TRACE-Eligible Securities, including U.S. Treasury securities).

[94] *See* FINRA Rule 6730—Transaction Reporting, Supplementary Material .07—ATS Identification of Non-FINRA Member Counterparties for Transactions in U.S. Treasury Securities, *supra* note 16 (among other things, defining the term ''covered ATS'' as an ATS that executed transactions in U.S. Treasury securities against non-FINRA member subscribers of $10 billion or more in monthly par value, computed by aggregating buy and sell transactions, for any two months in the preceding calendar quarter). U.S. Treasury securities market share is calculated as the sum of the identified entities' buy and sell volume divided by twice the market-wide volume for the period.

[95] *See supra* note 93.

[96] *Id.*

[97] *See supra* notes 60–62 and accompanying text.

[98] *See, e.g.,* sections 10(b), 15(c), and 15(g) of the Exchange Act; 15 U.S.C. 78j(b), 15 U.S.C. 78*o*(c), and 15 U.S.C. 78*o*(g); section 17(a) of the Securities Act of 1933; 15 U.S.C. 77q(a); 17 CFR 240.10b–5; FINRA Rules 2020 (Use of Manipulative, Deceptive, or Other Fraudulent Devices), 4530 (Reporting Requirements), 5210 (Publication of Transactions and Quotations); NYSE Rules 2020 (Use of Manipulative, Deceptive or Other Fraudulent Devices) and 5220 (Disruptive Quoting and Trading Activity Prohibited); Nasdaq General 9, Section 1 (General Standards) and Nasdaq General 9, Section 53 (Disruptive Quoting and Trading Activity Prohibited); and Cboe Rule 8.6 (Manipulation).

and associated persons with the Exchange Act, the rules and regulations thereunder, and the SROs' own rules.[99] FINRA traditionally has been the SRO that primarily oversees cross-exchange and off-exchange securities trading activity. In the specific context of broker-dealer firms that are not FINRA members and effect off-member-exchange securities transactions, FINRA is unable to directly enforce such firms' compliance with Federal securities laws and Commission rules, or apply its own rules to such firms, because they are not FINRA members. Without direct, membership-based FINRA oversight, the Commission believes that SRO oversight of off-member-exchange securities trading activity by non-FINRA members is largely a function of cooperative regulatory arrangements among SROs, which, as explained below, do not confer membership-based jurisdiction to FINRA to enforce compliance with the Exchange Act and applicable rules.

In this regard, exchange SROs and FINRA are able to perform cross-market surveillance of trading activity in NMS and OTC securities using the Consolidated Audit Trail (''CAT'') data.[100] But access to CAT data does not confer jurisdiction to FINRA over a firm that is not a FINRA member and that trades those securities off-exchange.[101] As a result, a case regarding such a firm may be referred to the Commission or an exchange where the firm is a member for further investigation because access to CAT data alone does not enable FINRA to conduct additional investigative methods, such as collecting documents, interviewing witnesses, and otherwise investigating the firm to generate evidence.[102] Moreover, trading activity in U.S. Treasury securities is not reported to CAT, so CAT is not a tool that can be used by SROs to surveil that activity, which, as reflected by the figures set forth above, is engaged in extensively by some broker-dealers that are not FINRA members.

Exchange SROs and FINRA also have entered into 17d–2 plans [103] and RSAs. Under these arrangements, as of 2020, FINRA operated a cross-market regulatory program that covered 100% of U.S. equity market activity and approximately 45% of options contract volume, and FINRA also provided market-specific regulatory services to several exchanges.[104] The Commission understands that these arrangements have enhanced regulatory outcomes.[105] However, neither of these arrangements creates a requirement for broker-dealers that are not FINRA members to report their U.S. Treasury securities activity to TRACE. Moreover, 17d–2 plans are valuable, Commission-approved arrangements in the context of common members of more than one SRO. A 17d–2 plan among one or more exchange SROs and FINRA would not provide FINRA with jurisdiction over a firm that is not a FINRA member, as 17d–2 plans are designed to mitigate duplicative SRO oversight over common members of more than one SRO with respect to rules that are common among the SROs. In other words, for FINRA to be named as the DEA for a firm under a 17d–2 plan, the firm would have to be a FINRA member.[106]

The Commission therefore understands FINRA's cross-market regulatory program for equities and options relies on RSAs insofar as it covers broker-dealers that are not FINRA members.[107] RSAs can be used to cover matters or firms that may fall outside the scope of a 17d–2 plan.[108] While RSAs can serve useful purposes, they generally are not publicly available, are not subject to Commission approval, and are voluntary private agreements between SROs that are not mandated by any Commission rule or statutory obligation and that may expire or be terminated by the parties.[109] As a result, to the extent FINRA oversight is applied to non-FINRA member firms' off-member-exchange securities trading activity based on RSAs, such oversight relies upon arrangements between exchanges and FINRA that are discretionary. In addition, under an RSA, FINRA examines for compliance with the rules of the exchange that has entered into the RSA. Thus, non-FINRA members that are members of different exchanges may be subject to different exchange rules and interpretations when they effect off-member-exchange securities transactions to the extent these rules and interpretations are different. This approach is less stable and consistent than a regulatory regime in which Association membership and oversight is mandated.

Further, the continued availability of the Rule 15b9–1 exemption from Association membership detracts from FINRA's off-exchange securities transaction reporting regime, and in particular, TRACE reporting for U.S. Treasury securities transactions. The ''covered ATS'' U.S. Treasury security volumes set forth above may not capture

[99] *See* section 19(g) of the Act; 15 U.S.C. 78s(g).

[100] Exchange rules require their members to report to CAT, which is operated by FINRA CAT, LLC, a subsidiary of FINRA. *See, e.g.,* Cboe BYX Rules 4.5–4.17; Nasdaq General 7; and NYSE Rule 6800.

[101] *See* Concept Release Concerning Self-Regulation, *supra* note 18, 69 FR at 71266 (stating that ''[w]hile the full implementation of robust intermarket order audit trails would be a significant step forward, an order audit trail is simply a tool that can be used by regulators to better surveil for illicit trading activity'' and that ''the SRO regulatory function would still play a critical role in the regulation of intermarket trading.''). Likewise, the ISG is a valuable forum for the coordination of regulatory efforts and sharing of information and serves an important function, but it does not confer jurisdiction to FINRA over a broker-dealer that is not a FINRA member and effects off-member-exchange securities transactions. The ISG also does not create rules or impose disciplinary actions; rather, the information sharing between members allows for the proper authority, regulator, or exchange to pursue appropriate rule changes or pursue legal action on market participants based on evidence gathered.

[102] *See infra* note 140.

[103] There are 19 effective bilateral plans and 4 multiparty plans. The 17d–2 plans can be found on the Commission's website at: *https://www.sec.gov/rules/sro/17d-2.htm.*

[104] *See* Cross-Market Regulatory Coordination Staff Paper, *supra* note 31 (stating that ''[t]he exchanges have relied on FINRA to perform regulatory functions, including surveillance, examinations, investigations, and enforcement functions, pursuant to RSAs and Rule 17d–2 plans. Under these arrangements, FINRA has developed a cross-market program that covers 100% of U.S. equity market activity and approximately 45% of options contract volume. In addition to these cross-market supervision services, FINRA provides market-specific regulatory services to several exchanges.'') (citing Letter from Marcia E. Asquith, Executive Vice President, FINRA, to Vanessa Countryman, Secretary, Commission, dated November 30, 2020).

[105] *See* Cross-Market Regulatory Coordination Staff Paper, *supra* note 31.

[106] For example, under a 17d–2 plan among exchange SROs and FINRA, FINRA is the Designated CAT Surveillance Authority (DCSA) for members of the exchange SROs and FINRA, and in that capacity assumes surveillance, investigation and enforcement responsibility relating to compliance by common members with Rule 613 and the rules of the SROs regarding compliance with the CAT NMS Plan. *See* Securities Exchange Act Release No. 89042 (June 10, 2020), 85 FR 36450 (June 16, 2020) (File No. 4–618). But FINRA is not the DCSA for firms that are not FINRA members.

[107] *See, e.g.,* Securities Exchange Act Release No. 89972 (September 23, 2020), 85 FR 61062, 61063 (September 29, 2020) (amending the 17d–2 plan among exchange SROs and FINRA relating to the surveillance, investigation, and enforcement of insider trading rules, which allocates regulatory responsibility to FINRA over common FINRA members (members of FINRA and at least one of the exchange SRO participants in the plan), and stating that the participating exchange SROs will also enter into an RSA to provide for the investigation and enforcement of suspected insider trading against broker-dealers that are not common FINRA members).

[108] *See* Cross-Market Regulatory Coordination Staff Paper, *supra* note 31.

[109] Unlike with Commission-approved 17d–2 plans, the SRO paying for regulatory services under an RSA retains ultimate legal responsibility for and control over the functions allocated to the service-providing SRO under the RSA. Further, in the context of an RSA in which an exchange SRO contracts with FINRA for FINRA to provide regulatory services on behalf of the exchange SRO, FINRA's oversight of the off-member-exchange trading activity of a non-FINRA member firm that is a member of the exchange is for compliance with the exchange's rules, not FINRA's rules.

all of those firms' U.S. Treasury securities transaction volume.[110] Broker-dealers that are not FINRA members are not required to report their U.S. Treasury securities transactions to FINRA's TRACE system because TRACE reporting obligations for U.S. Treasury securities transactions apply only to broker-dealers that are FINRA members.[111] When a non-FINRA member broker-dealer trades U.S. Treasury securities through a covered ATS, the covered ATS is obligated in its TRACE report to identify the non-FINRA member via its MPID,[112] thus providing visibility to regulators as to what transactions on covered ATSs are attributable to non-FINRA members. But regulators have no such visibility when non-FINRA member broker-dealers trade U.S. Treasury securities on an ATS that is not a covered ATS or otherwise than on an ATS with a counterparty that also is not a FINRA member. In the former case, the transaction still must be reported to TRACE but the non-FINRA member is not specifically identified via a MPID and instead is identified only as a ''customer''; in the latter case, there is no TRACE reporting obligation whatsoever.[113] These circumstances detract from the comprehensiveness of U.S. Treasury securities TRACE data and regulators' ability to utilize that data to detect and deter improper trading activity in the U.S. Treasury securities market. The Commission cannot quantify total secondary market trading in U.S. Treasury securities due to the current lack of comprehensive data in U.S. Treasury securities in TRACE. Moreover, broker-dealers that are not FINRA members have a potential competitive advantage over those that are FINRA members and thus incur the costs of reporting transactions in U.S. Treasury securities transactions.

Accordingly, the Commission is proposing to update Rule 15b9–1 such that proprietary trading firms that are registered broker-dealers generally must join FINRA, pursuant to Section 15(b)(8) of the Act, if they effect securities transactions otherwise than on an exchange of which they are a member. The Commission preliminarily believes that amending Rule 15b9–1 so that broker-dealer proprietary trading firms generally would be required to join FINRA if they trade elsewhere than on an exchange where they are a member would address the above-described issues by subjecting such firms to FINRA's direct, membership-based jurisdiction and rules, including FINRA's TRACE reporting regime for U.S. Treasury security transactions. This would be consistent with the Exchange Act's statutory framework for complementary exchange SRO and Association oversight of broker-dealer trading activity, in which Section 15(b)(8) requires broker-dealers to join an Association if they effect securities transactions elsewhere than an exchange where they are a member. Amending Rule 15b9–1 in this way also would modernize the rule in a manner that is consistent with how proprietary trading occurs today and that promotes Section 15(b)(9)'s requirement that any exemption from Section 15(b)(8) be consistent with the public interest and protection of investors. The Commission believes that direct, membership-based FINRA oversight over and the application of FINRA's securities transaction reporting requirements to firms that effect off-member-exchange securities transactions would create more effective SRO oversight over their off-member-exchange securities trading activity and therefore promote the protection of investors and the public interest.

As discussed above,[114] the Exchange Act requires dual SRO and Commission oversight of registered broker-dealers, with SROs acting as robust, front-line regulators of their broker-dealer members. The Commission may bring enforcement actions, including pursuant to referrals made by SROs, to enforce broker-dealers' compliance with the Exchange Act and applicable rules, and SROs have regulatory authority over their members pursuant to the Exchange Act. Moreover, Section 15(b)(8)'s complementary SRO oversight structure generally has enabled exchange SROs to specialize in oversight of securities trading activity that occurs on the exchange, and FINRA to specialize in oversight of cross-market, off-member-exchange securities trading activity. The Commission believes that rescinding Rule 15b9–1's *de minimis* allowance and proprietary trading exclusion would better enable robust and consistent FINRA oversight in the area of its expertise through direct, membership-based jurisdiction of broker-dealers that effect off-member-exchange securities transactions proprietarily. This, in turn, could strengthen the front-line layer of SRO regulatory oversight that is applied to off-member-exchange proprietary securities trading in today's market.

Requests for Comment

The Commission requests comment on all aspects of the foregoing background discussion as well as, in particular, on the following questions:

1. Is the Commission's estimate of the number of broker-dealers that are exchange members but not FINRA members still accurate as of the time of publication of this re-proposal? Is it too high or too low? Are there broker-dealers that were not FINRA members as of April 2022 that have since joined FINRA? Please explain.

2. Are the Commission's estimates of the securities transaction volumes attributable to non-FINRA member broker-dealers accurate? If not, why are they inaccurate? Are there any uncertainties associated with such estimates?

3. Do exchange SROs directly exercise their SRO authority with respect to off-member-exchange securities trading activity by their members? If so, how have exchange SROs exercised their authority in this regard? In particular, how, if at all, have exchange SROs sought to exercise SRO authority over off-member-exchange securities trading activity conducted by their broker-dealer members that are not FINRA members? Have exchange SROs sought to exercise authority over U.S. Treasury securities trading activity by their members? Please explain and provide examples, if possible.

4. Do RSAs or other cooperative arrangements among SROs cover the

[110] In the proposal the Commission issued in January 2022 to, among other things, amend Regulation ATS for ATSs that trade U.S. government securities, the Commission estimated that there would be 7 trading systems that trade only government securities or repurchase or reverse repurchase agreements on government securities and operate pursuant to the Exchange Act Rule 3a1–1(a)(3) exemption and which would be required to comply with Regulation ATS under the proposal. *See* Securities Exchange Act Release No. 94062 (January 26, 2022), 87 FR 15496, 15523 (March 18, 2022).

[111] *See* FINRA Rule 6720—Participation in TRACE. Beginning September 1, 2022, certain depository institutions will be required to report to TRACE transactions in U.S. Treasury securities, agency debt securities and agency mortgage-backed securities. *See FINRA.org*, Federal Reserve Depository Institution Reporting to TRACE, *available at https://www.finra.org/filing-reporting/trace/federal-reserve-depository-institution-reporting* (last visited July 22, 2022).

[112] *See* FINRA Rule 6730—Transaction Reporting, Supplementary Material .07—ATS Identification of Non-FINRA Member Counterparties for Transactions in U.S. Treasury Securities, *supra* note 16.

[113] In addition, in the context of an NMS stock transaction effected between a FINRA member and a non-FINRA member otherwise than on an exchange, only the FINRA member is obligated to report the transaction to the FINRA TRF and the non-FINRA member generally is not identified on the trade report as the contra party to the trade. *See* Trade Reporting Frequently Asked Questions, Reporting Relationships and Responsibilities, Section 202: Reporting Trades with a Non-FINRA Member, *available at: https://www.finra.org/filing-reporting/market-transparency-reporting/trade-reporting-faq#202* (last visited July 22, 2022). The non-FINRA member is, however, identified in CAT in this context.

[114] *See* section II.A, *supra.*

U.S. Treasury securities trading activity conducted by broker-dealers that are exchange members but not FINRA members? If so, please specify the arrangements and how they work, including any limitations associated with such arrangements.

5. Is the Commission's understanding correct that FINRA's cross-market regulatory program for equities and options is based on RSAs insofar as it covers broker-dealers that are not FINRA members? If not, how are broker-dealers that are not FINRA members covered?

*C. 2015 Proposal*

The Commission previously proposed to amend Rule 15b9–1 in March 2015.[115] The 2015 Proposal would have eliminated the *de minimis* allowance and proprietary trading exclusion from the rule, and added language to the rule that more closely tracked Section 15(b)(8) in providing an exemption from Section 15(b)(8)'s Association membership requirement only for a broker or dealer that carries no customer accounts and effects transactions in securities solely on a national securities exchange of which it is a member except in certain limited circumstances.[116] The Commission did not adopt the 2015 Proposal but, as discussed above, remains concerned that proprietary trading dealer firms' reliance on the Rule 15b9–1 exemption from Association membership undermines the effectiveness of the SRO regulatory structure and SRO oversight of the securities markets as envisioned by Congress in the Exchange Act. Therefore, today the Commission is re-proposing amendments to Rule 15b9–1 that are similar to what was proposed in 2015, but modified in certain respects in light of the Commission's further consideration of what set of circumstances would continue to be appropriate for an exemption from Association membership in today's market, which consideration is informed by comments on the 2015 Proposal.[117]

## III. Discussion of Amendments to Rule 15b9–1

As a general matter, the result under the amended version of Rule 15b9–1 being proposed today would be the same as under the 2015 Proposal: a broker or dealer would be required to join an Association if it effects transactions in securities elsewhere than on an exchange to which it belongs as a member, unless it can rely upon one of the amended rule's narrow exceptions.[118] Conversely, a broker or dealer would not need to become a member of an Association if it effects securities transactions only on an exchange of which it is a member.[119] The Commission preliminarily believes that these outcomes would enhance SRO regulatory oversight in a manner that promotes Section 15(b)(8) of the Act and the public interest and investor protection requirements of Section 15(b)(9) of the Act by enabling direct Association oversight of off-member-exchange broker-dealer proprietary trading activity. Several commenters supported the 2015 Proposal.[120] Some commenters questioned the necessity of expanded FINRA oversight.[121]

As noted above, Rule 15b9–1 currently exempts any broker or dealer from membership in an Association if it is a member of a national securities exchange, carries no customer accounts, and has annual gross income of no more than $1,000 that is derived from purchases or sales of securities effected otherwise than on an exchange of which it is a member.[122] Under the rule's proprietary trading exclusion, income derived from transactions for a dealer's own account with or through another registered broker or dealer is excluded from the *de minimis* allowance.[123]

The Commission is proposing to eliminate the *de minimis* allowance and the proprietary trading exclusion, and continue to allow an exemption from Association membership only for a registered broker or dealer that is an exchange member, carries no customer accounts, and effects securities transactions solely on a national securities exchange of which it is a member except in two narrow circumstances: (1) a broker or dealer effects transactions in securities otherwise than on an exchange to which it belongs as a member that result solely from orders that are routed by an exchange of which it is a member in order to comply with Rule 611 of Regulation NMS or the Options Order Protection and Locked/Crossed Market Plan; or (2) a broker or dealer effects transactions in securities otherwise than on an exchange to which it belongs as a member that are solely for the purpose of executing the stock leg of a stock-option order. In the subsections below, the Commission discusses each element of the re-proposed rule in detail.

*A. Elimination of the De Minimis Allowance and Proprietary Trading Exclusion*

As in the 2015 Proposal, today the Commission is re-proposing to delete paragraphs (a)(3) and (b) from Rule

[115] *See* 2015 Proposing Release, *supra* note 6, 80 FR 18036–37.

[116] The 2015 Proposal would have provided exemptions from Association membership for a dealer that is an exchange member, carries no customer accounts, and effects transactions elsewhere than an exchange of which it is a member solely for the purpose of hedging the risks of its floor-based activity; or for a broker or dealer that is an exchange member, carries no customer accounts, and effects transactions elsewhere than an exchange of which it is a member that result from orders that are routed by a national securities exchange of which it is a member to prevent trade-throughs, consistent with the provisions of Rule 611 of Regulation NMS. As discussed below, the Commission is re-proposing herein that amended Rule 15b9–1 set forth a modified version of that routing exemption but is not including in this re-proposal a hedging exemption outside the context of stock-option orders.

[117] *See supra* note 17.

[118] *See* proposed Rule 15b9–1; *see also* 2015 Proposing Release, *supra* note 6.

[119] *See* section 15(b)(8) of the Act. If a broker or dealer is a member of multiple exchanges and effects securities transactions only on those exchanges, those exchanges could enter into an RSA to ensure effective cross-market supervision of this activity. The Commission acknowledges that in the future another SRO could assume these responsibilities pursuant to 17d–2 plans, subject to Commission approval. In addition, a given exchange may choose to enter into an RSA with an Association, as some exchanges have now. In those cases, the exchange maintains the ultimate responsibility for the contracted regulatory responsibilities.

[120] *See, e.g.,* Letters from: Ryan W. Porter, Founder, High Amplitude Capital Trading (March 28, 2015) (''Porter Letter'') at 1; Chris Barnard (May 20, 2015) (''Barnard Letter'') at 1 (stating that the proposal would ''improve the consistency and effectiveness of regulatory supervision; reduce the existing differential regulatory burden of Member Firms and Non-Member Firms; and promote firms to compete more equitably to supply liquidity both on exchanges and off-exchange.''); Claudia Crowley, Chief Regulatory Officer, IEX Group, Inc. (May 22, 2015) (''IEX Letter'') at 2 (stating that there is a need to update the exemption in Rule 15b9–1 to better align it with its original intent and ''better reflect current market technology and practices'' which would result in ''more comprehensive and consistent regulatory oversight of off-exchange market activity.''); Marcia E. Asquith, Senior Vice President and Corporate Secretary, FINRA (June 2, 2015) (''FINRA Letter'') at 9–10; Theodore R. Lazo, Managing Director and Associate General Counsel, SIFMA (June 1, 2015) (''SIFMA Letter'') at 1; Angelo Evangelou, Associate General Counsel, Legal Division, Cboe (June 10, 2015) (''Cboe Letter'') at 1 (supporting the proposal ''insofar as the rulemaking seeks to require FINRA membership of proprietary firms whose primary business is executing transactions off-exchange.''); and Elliot Grossman, Managing Director, Dinosaur Securities (Sep. 15, 2015) (''Dinosaur Letter'') at 2.

[121] *See infra* notes 125–127 and accompanying text.

[122] 17 CFR 240.15b9–1(a).

[123] 17 CFR 240.15b9–1(b)(1). The current rule also states that the *de minimis* allowance does not apply to income derived from transactions through the Intermarket Trading System (''ITS''), and defines the term ''Intermarket Trading System'' for purposes of the rule. 17 CFR 240.15b9–1(b)(2) and (c). ITS was a national market system plan (''NMS Plan'') that was eliminated in 2007 because it was superseded by Regulation NMS. *See infra* notes 159–168 and accompanying text. Since Rule 15b9–1's references to ITS are now obsolete, as in the 2015 Proposal, the Commission is re-proposing to eliminate these references from the rule.

15b9–1.[124] This would eliminate the *de minimis* allowance and proprietary trading exclusion. As a result, under Rule 15b9–1 as amended, any broker or dealer required by Section 15(b)(8) of the Act to become a member of an Association would be exempt from that requirement only if it is a member of a national securities exchange, carries no customer accounts, and any securities transactions that it effects elsewhere than on an exchange of which it is a member meet the limited criteria set forth in proposed paragraph (c) of the amended rule, which are discussed in detail below. The re-proposed elimination of the *de minimis* allowance and proprietary trading exclusion would generally preclude proprietary trading firms that are registered with the Commission pursuant to Section 15 of the Act and conduct off-member-exchange securities trading from relying on Rule 15b9–1 as an exemption from Section 15(b)(8)'s Association membership requirement. Therefore, pursuant to Section 15(b)(8), they would be required to become a member of an Association unless they effect transactions in securities solely on an exchange of which they are a member.

Some commenters on the 2015 Proposal questioned the necessity and appropriateness of the expanded FINRA oversight that would result from the then-proposed elimination of the *de minimis* allowance and proprietary trading exclusion. Their concerns centered on assertions that exchange oversight may be more effective than FINRA oversight,[125] FINRA membership would result in duplicative regulation for certain firms,[126] and FINRA regulation is customer-focused and therefore not appropriate for proprietary trading firms that do not carry customer accounts.[127]

The Commission continues to believe, however, that in today's market the *de minimis* allowance and proprietary trading exclusion are no longer appropriate, and that direct Association regulation generally of broker-dealers' off-member-exchange securities trading activity, consistent with what Congress envisioned in Section 15(b)(8) of the Act, would promote the protection of investors and the public interest pursuant to Section 15(b)(9) of the Act. As discussed above, the *de minimis* allowance and proprietary trading exclusion originally were intended to permit a type of off-exchange activity that no longer occurs today.[128] When the Commission adopted Rule 15b9–1 and then the proprietary trading exclusion, virtually all trading activity was conducted manually on the floors of national securities exchanges.[129] Today's market structure is dramatically different—proprietary, cross-market order routing and trading strategies are a significant component of the markets, and exchange floor-based businesses represent only a fraction of market activity. Despite this transformative shift in how trading is conducted, the *de minimis* allowance and proprietary trading exclusion set forth in Rule 15b9–1 have never been adjusted.

Rule 15b9–1's stasis notwithstanding the market's transformation has led to a misalignment in the complementary regulatory structure contemplated by Congress since FINRA does not have direct, membership-based jurisdiction over off-member-exchange securities trading activity by broker-dealers that are not FINRA members. The Exchange Act established the concept of an Association as the regulator of such trading activity,[130] a role currently fulfilled by FINRA, which also is the SRO to which off-exchange trades are reported.[131] As noted above, as of April 2022 there were approximately 65 brokers or dealers that were not FINRA members, including active proprietary trading firms, which accounted for a significant percentage of off-exchange equities and U.S. Treasury securities transaction volumes, as well as a significant amount of transaction volume on exchanges where they are not a member.[132] The Commission is concerned that the current cross-market regulatory program applied to such firms' off-member-exchange securities trading activity—which the Commission understands is dependent on RSAs—is not as stable or consistent as direct, membership-based Association oversight through FINRA membership in addressing any such trading activity and does not trigger FINRA's off-exchange transaction reporting obligations for such firms. Under the amended rule, the 65 firms identified above generally would not be exempt from Section 15(b)(8) of the Act and therefore would be required to join FINRA (unless they qualify for one of the amended rule's exceptions), the only Association currently, to the extent that they effect securities transactions elsewhere than an exchange where they are a member. The Commission believes that direct, membership-based FINRA oversight over and the application of FINRA's securities transaction reporting requirements to such firms would create more effective SRO oversight over their off-member-exchange securities trading activity and therefore promote the protection of investors and the public interest.

Contrary to certain commenters' suggestion that FINRA oversight of proprietary trading firms is not necessary since they do not carry customer accounts, FINRA has established a regulatory regime for broker-dealers that effect off-member-exchange securities transactions that applies to FINRA members regardless of whether they handle customer orders or carry customer accounts. For example, FINRA has developed a detailed set of rules in core areas such as trading practices,[133] business conduct,[134]

[124] The Commission also is proposing to renumber the paragraphs that remain in the amended rule.

[125] *See, e.g.,* Letters from: Mary Ann Burns, Chief Operating Officer, FIA Principal Traders Group (June 1, 2015) (''FIA 2 Letter'') at 4; Joanne Moffic-Silver, Executive Vice President, General Counsel and Corporate Secretary, Cboe, Elizabeth K. King, Secretary and General Counsel, NYSE, Joan C. Conley, Senior Vice President and Corporate Secretary, NASDAQ OMX Group, Inc., (June 1, 2015) (''Cboe/NYSE/Nasdaq Letter'') at 2; James Ongena, Senior Vice President and General Counsel, Chicago Stock Exchange (June 1, 2015) (''CHX Letter'') at 2; Jay Coppoletta, Chief Legal Officer, PEAK6 Capital Management LLC (June 1, 2015) (''PEAK6 Letter'') at 2; Frank A. Bednarz, Global Co-Head of Trading, CTC Trading Group, LLC (June 1, 2015) (''CTC Letter'') at 2–3.

[126] *See, e.g.,* Letters from: Mark E. Gannon, Chief Compliance Officer, Lakeshore Securities, LP (June 4, 2015) (''Lakeshore Letter'') at 2–3; Mark Schepps, General Counsel and Senior Director of Compliance, D&D Securities, Inc. (May 29, 2015) (''D&D Letter'') at 3.

[127] *See, e.g.,* CTC Letter at 2–3; PEAK6 Letter at 2; Letter from Gregory F. Hold, CEO, Hold Brothers Capital LLC (June 1, 2015) (''Hold Brothers Capital Letter'') at 2.

[128] *See supra* note 60 and accompanying text. The Commission is unaware of any floor members today that refer accounts to other broker-dealers in exchange for a share of commission revenues.

[129] *See, e.g.,* Special Study, *supra* note 62, at 98 (''Trading by NYSE members on the Exchange but from off the floor accounts for approximately 5 percent of total Exchange purchases and sales . . .'').

[130] *See* 15 U.S.C. 78*o*(b)(8).

[131] *See supra* notes 40–43 and accompanying text.

[132] *See supra* notes 79–94 and accompanying text.

[133] *See* FINRA Rule 5000 Series—Securities Offerings and Trading Standards and Practices. For instance, FINRA prohibits members from coordinating prices and intimidating other members. *See* FINRA Rule 5240(a), providing, among other things, that ''[n]o member or person associated with a member shall: (1) coordinate the prices (including quotations), trades or trade reports of such member with any other member or person associated with a member, or any other person; (2) direct or request another member to alter a price (including a quotation); or (3) engage, directly or indirectly, in any conduct that threatens, harasses, coerces, intimidates or otherwise attempts improperly to influence another member, a person associated with a member, or any other person.''

[134] *See* FINRA Rule 2000 Series—Duties and Conflicts, *supra* note 38.

financial condition and operations,[135] and supervision,[136] many of which apply to FINRA members regardless of whether they handle customer orders or carry customer accounts.[137] FINRA's ability to create a consistent regulatory framework for all such broker-dealers that effect securities transactions elsewhere than on exchanges where they are a member, including the off-exchange market, is undermined by the subset of such broker-dealers that are not FINRA members in reliance on Rule 15b9–1. Moreover, part of FINRA's regulatory framework is its transaction reporting regime, and it is not customer-focused—it applies to FINRA members regardless of whether they handle customer orders or carry customer accounts.[138] Continuing to permit an exemption from FINRA membership on the basis that dealers that, for example, trade U.S. Treasury securities proprietarily do not have customers would not help improve the comprehensiveness of U.S. Treasury securities transaction reporting to TRACE or address the potential competitive advantage of non-FINRA members that, unlike FINRA members, may trade U.S. Treasury securities without reporting those transactions.

In addition, an Association's regulatory responsibility, like exchange SROs', includes an obligation to monitor for operational and regulatory issues, as well as issues relating to market disruptions.[139] The inability of FINRA to directly enforce regulatory compliance by non-FINRA member proprietary trading firms—whether or not they handle customer orders or carry customer accounts—may create a risk to the fair and orderly operation of the market because, for example, if FINRA were to detect that a non-FINRA member is effecting off-member-exchange securities transactions that are not in compliance with the Exchange Act or applicable rules, FINRA would not have direct, membership-based jurisdiction to directly address the behavior.[140] This is the case regardless of whether the firm has customers. And as discussed above,[141] the Commission believes that RSA-based regulatory efforts among exchange SROs and FINRA, while beneficial in many contexts, are a less stable and consistent mechanism for SRO oversight than the Association membership required by the Exchange Act in the context presented here.

Moreover, contrary to commenters' assertions, the Commission does not preliminarily believe that exchange oversight alone would be more effective at remedying the above-described issues than direct FINRA oversight of off-member-exchange securities trading activity through the Association membership envisioned by Congress, or that FINRA membership would result in duplicative regulation for broker-dealer proprietary trading firms. The imposition of FINRA rules on such firms would require them to report their U.S. Treasury securities transactions under FINRA's TRACE reporting regime. It also would require that such firms be identified in off-exchange NMS stock transaction reports to FINRA's TRFs,[142] and thus promote broader public market transparency in NMS stocks.[143] Firms that are not FINRA members generally are not identified in TRF transaction reports.[144] Moreover, FINRA registration would confer jurisdiction to FINRA to regulate directly off-member-exchange trading activity as Congress envisioned in Section 15(b)(8) of the Act, to apply a more consistent regulatory framework to such trading activity, and to mitigate the risks to the fair and orderly operation of the market that stem from FINRA's current lack of direct oversight of non-FINRA members. Further, due to FINRA's experience and expertise in cross-market supervision, the Commission preliminarily believes that FINRA is well-positioned to assume direct jurisdiction over dealer firms that currently are not FINRA members and effect securities transactions elsewhere than exchanges where they are a member.[145] As for the potential for

[135] *See* FINRA Rule 4000 Series—Financial and Operational Rules. For example, FINRA Rule 4370(a) provides, among other things, that ''[e]ach member must create and maintain a written business continuity plan identifying procedures relating to an emergency or significant business disruption. Such procedures must be reasonably designed to enable the member to meet its existing obligations to customers. In addition, such procedures must address the member's existing relationships with other broker-dealers and counterparties. The business continuity plan must be made available promptly upon request to FINRA staff.''

[136] *See* FINRA Rule 3000 Series—Supervision and Responsibilities Relating to Associated Persons. This rule series generally requires FINRA member firms, among other things, to establish, maintain, and enforce written procedures to supervise the types of business in which the firm engages and the activities of its associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. *See e.g.,* FINRA Rules 3110 (Supervision), 3120 (Supervisory Control System), and 3170 (Tape Recording of Registered Persons by Certain Firms). *See also* FINRA By-Laws Article III—Qualifications of Members and Associated Persons. Any person associated with a member firm who is engaged in the securities business of the firm—including partners, officers, directors, branch managers, department supervisors, and salespersons—must register with FINRA.

[137] *See, e.g.,* the FINRA rules set forth in notes 38–43 and 133–136 *supra* and accompanying text.

[138] *See* FINRA Rule 6000 Series (Quotation, Order, and Transaction Reporting Facilities), *supra* note 40.

[139] 15 U.S.C. 78*o*–3.

[140] FINRA could refer such a matter to the Commission. *See, e.g.,* Statement of Robert W. Cook, President and CEO, FINRA, ''Equity Market Surveillance Today and the Path Ahead'' (Sep. 20, 2017), *available at https://www.finra.org/media-center/speeches-testimony/equity-market-surveillance-today-and-path-ahead* (stating that FINRA makes referrals to the Commission or other authorities if the target of an investigation is beyond the collective jurisdiction of FINRA and the exchanges, and that in a prior year FINRA's market regulation department made over 500 referrals to the Commission on behalf of FINRA and its exchange clients related to potential abusive trading strategies or other rule violations). FINRA also could refer such a matter to an exchange where the firm is a member or, as discussed above, potentially address the matter through an RSA if covered by the terms of the RSA.

[141] *See supra* Section II.B. As is also discussed above, while the Commission can bring enforcement actions, including pursuant to SRO referrals, that Commission layer of regulatory oversight is meant to work in tandem with, not in place of, a robust front-line layer of SRO oversight. *See supra* Sections II.A and II.B.

[142] *See supra* note 42 and accompanying text.

[143] *See* FINRA Rule 6000 Series—Quotation, Order, and Transaction Reporting Facilities and FINRA Rule 7000 Series—Clearing, Transaction and Order Data Requirements, and Facility Charges, *supra* note 40; *see also* note 112 and accompanying text.

[144] *See supra* note 113.

[145] One commenter stated that the costs of cross-market surveillance ''are appropriately funded by exchanges as regulators of their markets and FINRA as the regulator of the off-exchange market.'' *See* Letter from Adam Nunes, Head of Business Development, Hudson River Trading LLC (June 1, 2015) (''HRT Letter'') at 9. This commenter further stated that the Commission should not ''attempt to address cross-market surveillance by forcing all broker-dealers to become members of FINRA'' and should attempt to ''ensure that cross-market surveillance is not dependent on exchanges outsourcing exchange regulation to FINRA, as it leads to the possibility that changes to RSAs and 17d–2 agreements could substantially degrade the ability to perform appropriate cross-market surveillance.'' *Id.* This commenter also weighed the appropriateness of subjecting all broker-dealers to FINRA oversight and the benefits of regulatory standardization against potential negatives associated with having a single regulator. *Id.* at 9–11. *See also* CHX Letter at 1–2 (stating concern about a single point of failure in regulatory surveillance and oversight practices). As discussed above, in the specific context of broker-dealers that are not FINRA members and that effect off-member-exchange securities transactions, the Commission believes that cross-market surveillance is not performed via 17d–2 plans and should not be dependent on RSAs. *See supra* Sections II.A and II.B (discussing, among other things, that Commission approval of a 17d–2 plan relieves an SRO of the regulatory responsibilities allocated by the plan to another SRO but only with respect to common members of the participating SROs, and that RSAs' coverage is not limited to common members of the participating SROs but RSAs are discretionary arrangements among SROs that do not relieve the SRO contracting for regulatory services of ultimate regulatory responsibility over its members). Moreover, consistent with section 15(b)(8) of the Act, broker-dealers that do not effect securities transactions otherwise than on an exchange where they are a member would not be required to join FINRA. In addition, as re-proposed

duplicative SRO oversight, to the extent such firms also effect securities transactions on exchanges where they are a member, 17d–2 plans are designed to mitigate duplicative SRO oversight over common members.

Some commenters on the 2015 Proposal also contended that the availability of CAT data would mitigate the need to subject proprietary trading firms to FINRA SRO oversight.[146] As discussed above, the Commission preliminarily believes that the NMS and OTC securities data available to SROs through the CAT NMS Plan are helpful tools, but such access does not confer jurisdiction to FINRA over a firm that is not a FINRA member and that trades those securities off-exchange, or ensure that an individual exchange SRO of which such a firm is a member would seek to enforce compliance with its rules, Commission rules or Federal securities laws with respect to the firm's off-member-exchange activity.[147] Even if one or more exchanges of which a broker-dealer is a member and FINRA could coordinate SRO oversight of the non-FINRA member firm's off-member-exchange securities trading activity through the use of CAT data and RSAs, performing SRO oversight in this manner is less certain and stable than direct Association oversight of such trading activity due to the discretionary nature of RSAs, and frustrates the regulatory scheme established by Congress in which an Association directly regulates broker-dealers that effect securities transactions elsewhere than exchanges where they are a member.[148] Further, CAT reporting obligations do not apply to U.S. Treasury securities, U.S. Treasury securities are not traded on any exchange, and to the Commission's knowledge, unlike FINRA,[149] no exchange SRO possesses the expertise or proclivity to exert SRO oversight over their members' U.S. Treasury securities trading activity. Access to CAT data would not shed light on firms' U.S. Treasury securities trading activity or provide exchanges or FINRA with any ability to monitor that activity.

As is discussed in more detail in the Economic Analysis, firms that must become FINRA members would become subject to the fees charged by FINRA to all of its member firms. FINRA charges each member firm certain regulatory fees designed to recover the costs to FINRA of the supervision and regulation of members, including performing examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities.[150] These regulatory fees include a Trading Activity Fee (''TAF''),[151] which, at the time of the 2015 Proposal, was a primary source of commenter concern over the costs of FINRA membership that would be borne by proprietary trading firms.[152]

Shortly after the Commission published the 2015 Proposal, FINRA issued a Regulatory Notice proposing to amend the TAF such that it would not apply to transactions by a proprietary trading firm effected on exchanges of which the firm is a member.[153] FINRA stated in its Regulatory Notice that it would implement the TAF amendments to coincide with the compliance date of amendments to Rule 15b9–1. Given FINRA's prior consideration of amendments to its TAF, FINRA may again evaluate its TAF to ensure that it appropriately reflects the activities of, and regulatory responsibilities towards, broker-dealer proprietary trading firms that would be required to join FINRA if the proposed amendments to Rule 15b9–1 are adopted.[154]

and discussed below, Rule 15b9–1 would continue to provide certain narrow exemptions from section 15(b)(8)'s Association membership requirement for broker-dealers that do effect securities transactions otherwise than on an exchange where they are a member. Thus, the Commission does not believe it is necessarily the case that all broker-dealers would be required to join FINRA as a result of the proposal.

[146] *See, e.g.,* CHX Letter at 2.

[147] *See supra* Section II.B.

[148] *See* 2015 Proposing Release, *supra* note 6, 80 FR 18039 at notes 28–33 and accompanying text describing the regulatory history of off-exchange trading. *See also* Cross-Market Regulatory Coordination Staff Paper, *supra* note 31 (stating that ''[w]hile multiple SROs reviewing the same securities activities can have benefits, in that the resources and expertise from several organizations can be brought to bear on assessing these activities, it also can lead to duplication and inefficiencies in the regulatory process and increased burdens on member firms.''). FINRA and the exchange SROs have a history of coordinating and can work together to address concerns of firms that are receiving duplicative regulatory requests such as through the Cross Market Regulatory Working Group. *Id.*

[149] *See supra* notes 32–33 and accompanying text.

[150] FINRA Schedule A to the By-Laws of the Corporation (''FINRA Schedule A''), at Section 1.

[151] FINRA uses the TAF to recover the costs to FINRA of the supervision and regulation of members, including performing examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. *See* FINRA Schedule A, Section 1(a), *available at https://www.finra.org/rules-guidance/rulebooks/corporate-organization/section-1-member-regulatory-fees.* The TAF is generally assessed on FINRA member firms for all equity sales transactions that are not performed in the capacity of a registered exchange specialist or market maker. *See id.* at section 1(b). Many of the broker-dealers that could be required to join FINRA if the proposed amendments to Rule 15b9–1 are adopted effect securities transactions in large volumes throughout the national market system, and often in a capacity other than as a registered market-maker. *See also infra* note 241 and accompanying text for further discussion of the TAF.

[152] *See, e.g.,* Letter from Mary Ann Burns, Chief Operating Officer, FIA (May 6, 2015) (''FIA 1 Letter'') at 1, PEAK6 Letter at 2, Hold Brothers Capital Letter at 2, Lakeshore Letter at 2, CTC Letter at 5–6, D&D Letter at 2, Mark Schepps, General Counsel and Senior Director of Compliance, PTR, Inc. (May 29, 2015) (''PTR Letter'') at 2, Letter from Eric Chern, CEO, CTC Trading Group, L.L.C., Andrew Killion, CEO, Akuna Capital LLC, Thomas Hutchinson, President, Belvedere Trading LLC, Steven J. Gaston, Chief Compliance Officer, Consolidated Trading LLC, Trent Cutler, CEO, Cutler Group LP, John Kinahan, CEO, Group One Trading, L.P., Marc Liu, CEO, Integral Derivatives LLC, Craig S. Donohue, Executive Chairman, The Options Clearing Corporation, Sebastiaan Koeling, CEO, Optiver US, LLC, Andrew Tourney, Chief Compliance Officer, Peak6 Investments, L.P., Brian Donnelly, CEO, Volant Trading (July 13, 2016) (''Options Market Makers Letter'') at 6, and FIA 2 Letter at 5.

[153] *See* FINRA Regulatory Notice 15–13, Trading Activity Fee (May 2015), *available at http://www.finra.org/sites/default/files/notice_doc_file_ref/Notice_Regulatory_15-13.pdf.* FINRA, in its Regulatory Notice, stated that it analyzed the potential application and impact of the TAF to proprietary trading firms and believed it could result in a significant TAF obligation for these firms that may be disproportionate to FINRA's anticipated costs associated with the financial monitoring and trading surveillance of these firms, in large part because these firms do not have customers. *Id.* By way of example, FINRA stated that it conducts reviews for best execution (FINRA Rule 5310), trading ahead of customer orders (FINRA Rule 5320), and display of customer limit orders (Exchange Act Rule 604), all of which are directed at firms that have customers or receive orders from customers of another broker-dealer. *Id.* To the extent that firms that join FINRA do not carry customer accounts, FINRA would not have to surveil such firms for compliance with these rules. The objective of the contemplated TAF amendment, according to FINRA, would be to tailor the TAF to FINRA's anticipated costs associated with the financial monitoring and trading surveillance of those firms that would be required to become FINRA members as a result of the Commission's proposed amendments.

[154] Commenters on the 2015 Proposal addressed the costs of FINRA membership, with some suggesting that the costs would be burdensome for proprietary trading firms. *See, e.g.,* FIA 1 Letter at 1 (''FINRA Membership would be costly to most proprietary trading firms''); PEAK6 Letter at 2 (''[FINRA registration is] overly costly and burdensome''); Hold Brothers Capital Letter at 2 (''[Costs of FINRA membership] would be unduly burdensome to smaller, less well funded Proprietary Traders''); Lakeshore Letter at 2–3; CTC Letter at 5–6; D&D Letter at 2; PTR Letter at 2; Options Market Makers Letter at 6; FIA 2 Letter at 5. Commenters also previously expressed concern that the application of the TAF in its current form to proprietary trading firms would be overly burdensome, but suggested that FINRA's proposed TAF amendment would mitigate this concern. *See, e.g.,* HRT Letter at 5–6; FIA 1 Letter at 2; IEX Letter at 3; CTC Letter at 5; PEAK6 Letter at 3. Some commenters suggested a modification to FINRA's proposed amendment that would exclude from the TAF all of a firm's proprietary trading activity on an exchange of which it is a member. *See, e.g.,* HRT Letter at 11. Apart from the TAF as it currently exists, the Commission does not believe that broker-dealer firms that join FINRA if proposed Rule 15b9–1 is adopted would be disproportionately impacted by the costs of FINRA membership compared to existing FINRA members that already incur those costs, and as discussed in the Economic Analysis, the Commission preliminarily believes that the costs would be justified by the considerable benefits

Continued

On March 28, 2022, the Commission proposed changes to the definition of ''dealer'' and ''government securities dealer,'' within the meaning of Sections 3(a)(5) and 3(a)(44) of the Exchange Act, respectively.[155] We encourage commenters to review that proposal to determine whether it might affect their comments on this proposing release.

Requests for Comment

The Commission requests comment on all aspects of the proposed elimination of the *de minimis* allowance and proprietary trading exclusion as well as, in particular, on the following questions:

6. Are there exchange floor members that currently rely on the $1,000 *de minimis* allowance but not the proprietary trading exclusion? Are there exchange floor members that currently rely on the proprietary trading exclusion? If so, please describe the number and types of any such exchange floor members, and the nature and extent of their reliance. Also, please provide any available data on the amount and frequency of commissions or referral fees that floor members may continue to receive with respect to off-exchange transactions.

7. Should the Commission retain the *de minimis* allowance but eliminate the proprietary trading exclusion? If so, should the $1,000 threshold be changed? Why or why not? What should the threshold be? Should the *de minimis* allowance be modified in some other way? Would exchanges be able to appropriately monitor their members for compliance with an increased *de minimis* allowance? Would an increased *de minimis* allowance be an appropriate means of permitting hedging transactions that exchange members may effect elsewhere than their member exchange(s) without triggering Section 15(b)(8)'s Association requirement?

8. Instead of eliminating the proprietary trading exclusion, should the Commission retain a modified version of it? If so, how should it be modified and why? How could the proprietary trading exclusion be modified such that there is appropriate and comprehensive SRO oversight of firms that trade securities otherwise than on an exchange of which they are member and that trading activity? For example, could the proprietary trading exclusion be modified such that a firm's reliance on it is contingent on the firm reporting its off-exchange securities transactions to the appropriate FINRA facility or TRACE? Would this suffice to enable the Commission to achieve the goals expressed herein, despite not providing FINRA with direct regulatory oversight of the firms?

9. If the *de minimis* allowance and proprietary trading exclusion are eliminated, as proposed, would some exchange floor members be required to become members of an Association? If so, how many? Please provide the basis of any estimate. What would be the effect on those firms?

10. To what extent do dealer firms that are not FINRA members and that trade securities otherwise than on an exchange of which they are a member rely on the proprietary trading exclusion? Where, other than an exchange where they are a member, do they typically effect securities transactions? On ATSs? Off-exchange otherwise than on an ATS? Another exchange where they are not a member? In what sort of dealer activity do these firms engage? For example, do they typically provide liquidity or make markets? Do they typically remove liquidity? Do they engage in other types of trading activities?

11. If the *de minimis* allowance and proprietary trading exclusion are eliminated, as proposed, what would be the effect on dealer firms that currently rely on the proprietary trading exclusion? What, if anything, would be the impact on their businesses if they are required to register with an Association? Would business incentives change such that firms might adjust their business model by exiting the off-exchange market, moving transactions on-exchange, or leaving the markets altogether? Would firms alter their organizational structure or shift their proprietary trading activities to different or new affiliates? Would the effects on firms be different depending on what types of securities they trade?

12. Do commenters agree that some exchange member dealer firms trade proprietarily in U.S. Treasury securities as well as exchange-traded securities, and are not FINRA members in reliance on the proprietary trading exclusion? If the *de minimis* allowance and proprietary trading exclusion are eliminated, as proposed, what would be the effects on such firms? What, if anything, would be the impact on their U.S. Treasury securities trading business? Do commenters expect that these firms would alter their business model or organizational structure if the amendments proposed herein are adopted? If so, how? Would these firms shift their proprietary trading activities to different or new affiliates? Would increased price discovery reduce any competitive advantages these firms have by observing other firms' trades and not reporting their own trades? Would this impact market costs borne by the investing public?

13. Do commenters believe that most exchange member dealer firms that effect proprietary securities transactions otherwise than on an exchange of which they are member would need to join FINRA as a result of the elimination of the *de minimis* allowance and proprietary trading exclusion? If so, would it help address the Commission's concerns regarding FINRA's lack of direct jurisdiction over such firms' off-member-exchange securities trading activity when they are not FINRA members? What are commenters' views as to the extent of FINRA's current ability to oversee off-member-exchange securities trading activity by dealer firms that are not FINRA members?

14. How do exchange SROs currently surveil or regulate their members' securities trading activity and conduct elsewhere than the exchange? Do exchange SRO efforts in this regard mitigate any need to rescind the *de minimis* allowance and proprietary trading exclusion? How would such an approach address the fact that TRACE reporting obligations apply only to FINRA members?

15. Are there concerns regarding how the TAF would apply to proprietary trading broker-dealer firms?

16. Are there concerns regarding the applicability of certain FINRA rules to solely proprietary trading broker-dealers, as opposed to those who face customers? Which rules, and why? Are there benefits to applying FINRA rules to these broker-dealers?

### *B. Narrowed Criteria for Exemption From Association Membership*

The Commission is proposing to add to Rule 15b9–1 a new paragraph (c) that would set forth two narrow circumstances in which a broker or dealer could continue to be exempt from Section 15(b)(8)'s Association

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of this proposal. In addition, some firms that could rely on Rule 15b9–1 nevertheless join FINRA voluntarily, which suggests that there are business interests satisfied by and benefits derived from FINRA membership that outweigh the costs of being a FINRA member, for at least some firms. Some commenters also raised the concern that FINRA may get paid twice for its regulatory oversight—once, directly from the FINRA membership, and again from the SROs that have outsourced regulatory oversight to FINRA through RSA agreements. *See, e.g.,* SIFMA Letter at 3 and Lakeshore Letter at 3. The Commission notes that, as privately negotiated agreements between SROs, the fees set forth in RSAs are not subject to FINRA's rules or Commission review, and RSAs may be revised or terminated by the SRO parties thereto. By contrast, FINRA's rule-based fees are governed by Section 15A of the Act, which requires that they be equitably allocated among FINRA members and reasonable.

[155] *See* Securities Exchange Act Release No. 94524 (March 28, 2022), 87 FR 23054 (April 18, 2022).

membership requirement if it effects transactions in securities otherwise than on an exchange of which it is a member.[156] Specifically, following the existing paragraphs of Rule 15b9–1 that require that a broker or dealer be a member of a national securities exchange and carry no customer accounts (both of which paragraphs would be retained), the Commission proposes to add language that would state: ''and, (c) Effects transactions in securities solely on a national securities exchange of which it is a member, except that with respect to this paragraph (c) . . .'' The two proposed exceptions would follow in new paragraphs (c)(1) and (c)(2), and are discussed in turn below. Proposed paragraphs (c)(1) and (c)(2) of the amended rule are intended to provide more focused exemptions from Association membership for types of off-member-exchange activity that are similar to the off-member-exchange activities that Rule 15b9–1 was originally intended to cover, and that are consistent with the public interest and the protection of investors in accordance with Section 15(b)(9) of the Act.

1. Routing Exemption

In paragraph (c)(1) of Rule 15b9–1, the Commission proposes to provide an exemption from Association membership if a broker or dealer that meets the criteria of paragraphs (a) and (b) of the rule effects transactions in securities otherwise than on a national securities exchange of which it is a member that result solely from orders that are routed by a national securities exchange of which it is a member to comply with Rule 611 of Regulation NMS [157] or the Options Order Protection and Locked/Crossed Market Plan.[158] Relatedly, the Commission also proposes to eliminate from Rule 15b9–1 outdated references to the ''Intermarket Trading System.'' [159]

The ITS Plan required each participant to provide electronic access to its displayed best bid and offer, and provided an electronic mechanism for routing orders, called commitments to trade, to access those displayed prices.[160] The ITS Plan provided each market limited access to the other markets for the purpose of avoiding a trade-through [161] and locked or crossed markets.[162] The ITS Plan was eliminated in 2007 because it was superseded by Regulation NMS.[163] Thus, the references to the ''Intermarket Trading System'' in current paragraphs (b)(2) and (c) of Rule 15b9–1 are obsolete.

Today, Rule 611 of Regulation NMS requires trading centers, such as national securities exchanges, to establish, maintain, and enforce written policies and procedures reasonably designed to prevent trade-throughs in exchange-listed stocks, subject to certain exceptions.[164] In general, Rule 611 protects automated quotations that are the best bid or offer of a national securities exchange or an Association.[165] To facilitate compliance with Rule 611, national securities exchanges have developed the capability to route orders through brokers or dealers (many of which are affiliated with the exchanges) to other trading centers with protected quotations.[166] Similarly, in the options market, the Options Linkage Plan is a national market system plan that requires linkages between the options exchanges to protect the best-priced displayed quotes in the market and to avoid locked and crossed markets.[167] The Options Linkage Plan includes written policies and procedures that provide for order protection and address locked and crossed markets in eligible options classes.[168]

The proposed rule would continue to accommodate securities transactions away from a broker's or dealer's member exchange(s) that are to comply with these regulatory requirements. An exchange member may at times seek to effect a securities transaction on that exchange at a price that would trade through a protected quotation displayed on another trading center, such as another exchange or FINRA's ADF. In such a case, the exchange may route the member's order (if the exchange does not reject it), through a routing broker-dealer, to that other trading center to access the protected quotation. Moreover, if, for example, an ATS were to display a protected quotation on FINRA's ADF, absent the proposed exemption, a broker or dealer would have to join FINRA in order to have access to all protected quotations, even if the broker or dealer already is a member of every exchange on which it effects securities transactions.[169]

In essence, a broker or dealer may, as a necessary part of its business trading on exchanges of which it is a member and in light of today's market structure, effect securities transactions elsewhere than an exchange where it is a member solely as a consequence of routing by its member exchange(s) to comply with the requirements of Rule 611 of Regulation NMS or the Options Linkage Plan. The proposed rule would not require Association membership as a result of such transactions. On the contrary, it

[156] *See* proposed Rule 15b9–1(c). Relatedly, existing paragraph (a) of Rule 15b9–1 would remain the same except it would no longer be numbered as paragraph (a); existing paragraph (a)(1) would be renumbered as paragraph (a); and existing paragraph (a)(2) would be renumbered as paragraph (b). *See* proposed Rule 15b9–1.

[157] 17 CFR 242.611.

[158] *See* proposed Rule 15b9–1(c)(1). *See also* Securities Exchange Act Release No. 60405 (July 30, 2009), 74 FR 39362 (August 6, 2009) (''Options Linkage Plan''). In the 2015 Proposal, the Commission proposed to apply this exemption to orders routed to comply with Rule 611 but did not propose to apply this exemption to orders routed to comply with the Options Linkage Plan. Several commenters on the 2015 Proposal supported this proposed exemption for compliance with Rule 611. *See, e.g.,* HRT Letter at 7; D&D Letter at 3; PTR Letter at 3; CHX Letter at 3–4; SIFMA Letter at 3–4. Commenters also suggested that the routing exemption should covers orders routed to comply with the Options Linkage Plan. *See, e.g.,* Cboe Letter at 4; Cboe/NYSE/Nasdaq Letter at 3.

[159] The Intermarket Trading System was an NMS plan, the full title of which was ''Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage Pursuant to section 11A(c)(3)(B) of the Exchange Act of 1934'' (''ITS Plan''). The ITS Plan was initially approved by the Commission in 1978. Exchange Act Release No. 14661 (April 14, 1978), 43 FR 17419 (April 24, 1978) (''ITS Plan Approval Order''). All national securities exchanges that traded exchange-listed stocks and the NASD were participants in the ITS Plan.

[160] *See* ITS Plan Approval Order, *supra* note 159.

[161] *See* 17 CFR 242.600(b)(94) (defining a ''trade-through'' under Regulation NMS); *see also* Options Linkage Plan, *supra* note 158 (defining ''trade-through'' in the options context).

[162] A locked or crossed market occurs when a trading center displays an order to buy at a price equal to or higher than an order to sell, or an order to sell at a price equal to or lower than an order to buy, that is displayed on another trading center.

[163] Notice of Filing and Immediate Effectiveness of the Twenty Fourth Amendment to the ITS Plan Relating to the Elimination of the ITS Plan, Exchange Act Release No. 55397 (March 5, 2007), 72 FR 11066 (March 12, 2007). Today, Regulation NMS contains an updated trade-through rule, and contemplates the use of private linkages by trading centers to route orders to avoid trade-throughs. 17 CFR 242.610–611.

[164] 17 CFR 242.611. *See also* 17 CFR 240.600(b)(95) (defining ''trading center'').

[165] 17 CFR 242.611.

[166] *See* 17 CFR 242.600(b)(71) (defining ''protected quotation'' under Regulation NMS) and 17 CFR 242.600(b)(70) (defining ''protected bid'' and ''protected offer'' under Regulation NMS); *see also* Options Linkage Plan, *supra* note 158 (defining ''protected bid'' and protected offer'' in the options context).

[167] *See* Options Linkage Plan, *supra* note 158.

[168] *Id.*

[169] *See* HRT Letter at 7 (stating that ''if an ATS were to display a protected quote on FINRA's ADF, absent an exemption, a Non-Member would not have access to the protected quotations without registering with FINRA'' and asserting that allowing exempt firms to have access to all protected quotations is critical because it affects their ability to trade on exchanges of which they are members). *See also* SIFMA Letter at 3 (suggesting that the Commission clarify the exemption and whether it applies to non-floor exchange members whose orders are routed by the exchange to an off-exchange venue).

would be consistent with Section 15(b)(9)'s goal of protecting investors and the public interest if transactions effected solely to comply with these regulatory requirements, via routing by the broker's or dealer's member exchange(s), do not trigger Section 15(b)(8)'s Association membership requirement for a broker or dealer that otherwise limits its securities transactions to an exchange of which it is a member (or to stock transactions that are covered by the stock-option order exemption discussed below). The proposed routing exemption would serve the limited, narrowly defined purpose of facilitating compliance with intermarket order protection requirements.[170]

The Commission also believes that it would be consistent with the protection of investors and the public interest to permit reliance on this exemption only where the routing is performed by a national securities exchange of which the broker or dealer is a member. This limitation would help ensure that the broker's or dealer's member exchange has visibility into these routing transactions and thus is better able to provide effective SRO oversight of its member's activity that is related to its trading on the exchange and may not be overseen by another SRO if the member is exempt from Association membership under amended Rule 15b9–1.[171] In this context, the exemption would be applicable where the broker's or dealer's member exchange utilizes the services of a designated broker-dealer (which could be affiliated or unaffiliated with the exchange) to perform the exchange's outbound routing, as the Commission understands that this type of arrangement is typical among exchanges.

A commenter on the 2015 Proposal sought clarity as to whether the exemption would apply to routing broker-dealers that are affiliated with national securities exchanges that are used by exchanges to conduct routing to other trading centers.[172] The commenter pointed out that the Commission has required these affiliated routing broker-dealers to operate as ''facilities'' of their respective exchanges, which set forth rules that require the exchange to arrange for the routing broker-dealer to be overseen by a non-affiliated SRO, and which in practice is FINRA.[173] The commenter requested that the Commission clarify that the exemption from FINRA registration under Rule 15b9–1 would not apply to a broker-dealer affiliated with a national securities exchange that routes orders on behalf of the exchange for the purpose of accessing quotations in other trading centers.[174] In response, proposed Rule 15b9–1 would provide an exemption from Section 15(b)(8) of the Act's Association membership requirement for routing broker-dealers that meet the conditions for the exemption. However, proposed Rule 15b9–1 would not provide routing broker-dealers with an exemption from the rules of an exchange that are applicable to routing broker-dealers that operate as facilities of that exchange (and that the exchange uses to conduct routing to other trading centers). As is the case today, if an exchange's routing broker-dealer is covered by amended Rule 15b9–1, if adopted, then the routing broker-dealer would qualify for the exemption from Section 15(b)(8) afforded by the rule. But the routing broker-dealer would still be required to comply with the applicable rules of any exchange for which it performs outbound routing services, including those requiring the routing broker-dealer to be overseen by an unaffiliated SRO such as FINRA.[175]

The Commission requests comment on all aspects of the proposed routing exemption in amended Rule 15b9–1. In particular, the Commission seeks responses to the following questions:

17. What are commenters' views on the proposed routing exemption? How, if at all, should the proposed routing exemption be modified?

18. Is the scope of the proposed routing exemption sufficient to provide relief for all securities transactions effected elsewhere than on an exchange of which a broker or dealer is a member that might be effected to comply with Rule 611 of Regulation NMS and the Options Linkage Plan? If not, how should it be changed?

19. Should the proposed routing exemption be broadened to cover transactions beyond those that are to comply with Rule 611 of Regulation NMS and the Options Linkage Plan? If so, what types of additional transactions should be covered and why? For example, should the proposed routing exemption be broadened such that it covers routing by an exchange for any purpose and pursuant to any of the exchange's available routing functionalities? Should the proposed routing exemption be narrowed so that it does not cover transactions to comply with Rule 611 or the Options Linkage Plan? Should the proposed routing exemption be eliminated in its entirety?

20. Are there other off-exchange transactions that a broker or dealer might effect in order to comply with regulatory requirements? If so, please describe those transactions and the relevant regulatory requirements. Should there be an exemption in amended Rule 15b9–1 that applies to any such transactions?

21. Should the proposed routing exemption also cover broker-dealer routing to access protected quotations without using the member exchange's routing mechanisms? Why or why not?

22. As discussed above, the Commission preliminarily believes that

[170] One commenter stated that the routing exemption should be ''expanded to include all exchange-based routing activity, including, but not limited to, routing effected for Regulation NMS-compliance and best execution purposes'' and that the proposal ''does not contemplate the full array of legitimate and necessary exchange-based routing activity.'' *See* CHX Letter at 3. The commenter asserted that because all exchange routing functionalities must be approved by the Commission, any type of exchange routing would be consistent with the purposes of the Act and should be covered by the proposed exemption. *Id.* at 3–4. In response to this comment, the Commission preliminarily believes that many exchange-offered routing functionalities are not necessary to facilitate an exchange member's trading on the exchange. In addition, the Commission is unaware of any exchange-offered routing options that are specifically designated as being for best execution purposes. An exchange member may utilize the exchange's routing functionality to assist in meeting its best execution obligations, but this would not appear limited to any particular exchange-offered routing option. The commenter's suggested expansion of the proposed routing exemption could create a gap in the FINRA oversight intended to be achieved under the proposal if the exchange member could rely on its member exchange's router to execute significant volume on other markets where it is not a member without joining FINRA.

[171] Some commenters on the 2015 Proposal suggested that the routing exemption should not be limited to where the broker's or dealer's member exchange's routing mechanism is utilized, and that the Commission also should provide relief to broker-dealers that route orders to access protected quotations on away exchanges without utilizing the linkage routing mechanism offered by a home exchange. *See* Cboe Letter at 4; Cboe/NYSE/Nasdaq Letter at 3. The Commission does not believe this would be appropriate because it could permit scenarios in which there is insufficient SRO oversight of the entirety of the broker-dealer's trading activity. By way of example, if a broker-dealer were a member of some exchanges but not others and not a FINRA member, and the broker-dealer could rely on the exemption when routing orders to access protected quotations on non-member exchanges or off-exchange in order to prevent a trade-through on one of its member exchanges, the Commission believes that it is possible that there would not be an SRO responsible for and that could exercise jurisdiction over the broker-dealer's trading activity away from its member exchange(s).

[172] *See* SIFMA Letter at 3–4.

[173] *Id.*

[174] *Id.* (expressing concern as to whether ''an exchange-affiliated routing broker-dealer could restrict its activities to accessing protected quotations on other exchanges and could therefore avoid FINRA membership'').

[175] *See, e.g.,* Cboe BZX Exchange, Inc. Rule 2.11 (Cboe Trading, Inc. as Outbound Router); NYSE Rule 17(c) (Operation of Routing Broker); Nasdaq Rule 4758(b) (Routing Broker).

the proposed routing exemption from Section 15(b)(8)'s Association membership requirement does not exclude a routing broker that operates as the facility of an exchange, but such a routing broker would still be required to comply with the rules of the exchange, including exchange rules requiring that the routing broker be overseen by an SRO that is not affiliated with the exchange. Do commenters agree with this? Should Rule 15b9–1 be amended in some way such that it excludes or applies differently to routing brokers that operate as the facility of an exchange? Why or why not? Should the proposed routing exemption apply where the exchange uses a routing broker, whether affiliated or unaffiliated? Should the routing exemption apply only where the exchange uses an affiliated routing broker? Should the routing exemption apply only where the exchange uses an unaffiliated routing broker?

2. Stock-Option Order Exemption

In paragraph (c)(2) of amended Rule 15b9–1, the Commission proposes to provide an exemption from Association membership if a broker or dealer that meets the criteria of paragraphs (a) and (b) of the rule effects transactions in securities otherwise than on a national securities exchange of which it is a member, with or through another registered broker or dealer, that are solely for the purpose of executing the stock leg of a stock-option order.[176] Proposed paragraph (c)(2) also would require that a broker or dealer seeking to rely on this proposed exemption establish, maintain, and enforce written policies and procedures reasonably designed to ensure and demonstrate that such transactions are solely for the purpose of executing the stock leg of a stock-option order, and that the broker or dealer preserve a copy of its policies and procedures in a manner consistent with 17 CFR 240.17a–4 until three years after the date the policies and procedures are replaced with updated policies and procedures.[177]

The Commission understands that there are firms that trade stock-option orders whose business is focused on one or more options exchanges of which they are a member, and whose trading elsewhere is primarily to effect the execution of stock orders to facilitate their stock-option order business. In the Commission's preliminary view, these firms' stock trading activity is for a limited purpose and ancillary to their primary business handling stock-option orders on an options exchange of which they are member. As discussed below, there is a close link between the stock component transaction of a stock-option order and the relevant options exchange. As such, the proposed rule would permit these types of firms to continue their stock-option order trading business without being required to join stock exchanges or an Association solely in order to effect the execution of the stock legs of stock-option orders that they handle.

As noted above, the Commission estimates that, in 2021, 50 of the 66 firms identified as registered broker-dealers and exchange members but not FINRA members initiated options order executions.[178] The Commission estimates that seven of the firms that initiated options order executions also effected the execution of stock leg transactions, and therefore could potentially rely on the proposed stock-option order exemption to the extent that they effect the stock leg executions off-exchange or on an exchange where they are not a member. Because the broker or dealer relying on proposed Rule 15b9–1(c)(2) would not itself be a member of an exchange on which such stock transactions are executed, or a member of an Association, such stock leg transactions would need to be effected with or through another registered broker or dealer that is a member of the exchange where the transactions are executed or a member of an Association (or both).

Options exchanges define the term ''stock-option order'' in their rules.[179] Further, as far as the Commission is aware, all options exchanges accept a stock-option order only if it complies with the Qualified Contingent Trade (''QCT'') Exemption (''QCT Exemption'') from Rule 611(a) of Regulation NMS.[180] For purposes of relying on the exemption provided by proposed Rule 15b9–1(c)(2), a broker or dealer should adhere to the stock-option order definition of the options exchange where the stock-option order is handled and of which the broker or dealer is a

[176] *See* proposed Rule 15b9–1(c)(2). The 2015 Proposal did not include this type of exemption. Several commenters suggested that it be added to the amended rule. *See, e.g.,* Letter from Elizabeth K. King, Secretary and General Counsel, NYSE and Joan C. Conley, Senior Vice President and Corporate Secretary, NASDAQ OMX Group, Inc. (June 4, 2015) (''NYSE/Nasdaq Letter'') at 2–4; D&D Letter at 1–2; PTR Letter at 1–2; Cboe Letter at 3; Cboe/NYSE/Nasdaq Letter at 4; Lakeshore Letter at 2.

[177] *See* proposed Rule 15b9–1(c)(2).

[178] *See supra* note 81.

[179] *See, e.g.,* Cboe Rule 1.1 (defining ''stock-option order'' as ''an order to buy or sell a stated number of units of an underlying or a related security coupled with either (a) the purchase or sale of option contract(s) on the opposite side of the market representing either the same number of units of the underlying or related security or the number of units of the underlying security necessary to create a delta neutral position or (b) the purchase or sale of an equal number of put and call option contracts, each having the same exercise price and expiration date, and each representing the same number of units of stock as, and on the opposite side of the market from, the underlying or related security portion of the order. For purposes of electronic trading, the term ''stock-option order'' has the meaning set forth in Rule 5.33.''); Cboe Rule 5.33(b)(5) (defining a ''stock-option order'' as ''the purchase or sale of a stated number of units of an underlying stock or a security convertible into the underlying stock (''convertible security'') coupled with the purchase or sale of options contract(s) on the opposite side of the market representing either (i) the same number of units of the underlying stock or convertible security or (ii) the number of units of the underlying stock necessary to create a delta neutral position, but in no case in a ratio greater than eight-to-one (8.00), where the ratio represents the total number of units of the underlying stock or convertible security in the option leg(s) to the total number of units of the underlying stock or convertible security in the stock leg''). *See also, e.g.,* MIAX Rule 518(a)(5); MIAX Emerald Rule 518(a)(5); Nasdaq Options 3, Section 14(a)(i); Nasdaq PHLX Options 3, Section 7(b)(13); Nasdaq ISE Options 3, Section 14(a)(5); Nasdaq MRX Options 3, Section 14(a)(5); Nasdaq BX Chapter 5, Section 27(a)(v)(1) of the ''Grandfathered Rules'' of the Boston Stock Exchange, Inc.; NYSE Arca Rule 6.62–O(h)(1); and NYSE American Rule 900.3NY(h)(1).

[180] *See, e.g.,* Cboe Rule 5.33, Interpretations and Policies .04 Stock Option Orders (stating that a user may only submit a stock-option order if it complies with the QCT Exemption and that a user submitting a stock-option order represents that it complies with the QCT Exemption); Supplementary Material to Nasdaq ISE Options 3, Section 14 (stating that ''[m]embers may only submit Complex Orders in Stock-Option Strategies and Stock-Complex Strategies if such Complex Orders comply with the Qualified Contingent Trade Exemption from Rule 611(a) of Regulation NMS under the Exchange Act'' and that ''[m]embers submitting Complex Orders in Stock-Option Strategies and Stock-Complex Strategies represent that they comply with the Qualified Contingent Trade Exemption'') and Commentary .01 to MIAX Rule 518 (stating that ''[m]embers may only submit stock-option orders if such orders comply with the Qualified Contingent Trade Exemption from Rule 611(a) of Regulation NMS under the Securities Exchange Act of 1934'' and that ''[m]embers submitting such complex orders represent that such orders comply with the Qualified Contingent Trade Exemption''). A qualified contingent trade is ''a transaction consisting of two or more component orders, executed as agent or principal where: (1) at least one component order is in an NMS stock; (2) all components are effected with a product or price contingency that either has been agreed to by the respective counterparties or arranged for by a broker-dealer as principal or agent; (3) the execution of one component is contingent upon the execution of all other components at or near the same time; (4) the specific relationship between the component orders (*e.g.,* the spread between the prices of the component orders) is determined at the time the contingent order is placed; (5) the component orders bear a derivative relationship to one another, represent different classes of shares of the same issuer, or involve the securities of participants in mergers or with intentions to merge that have been announced or since cancelled; and (6) the transaction is fully hedged (without regard to any prior existing position) as a result of the other components of the contingent trade.'' Securities Exchange Act Release No. 54389 (August 31, 2006), 71 FR 52829 (September 7, 2006); *see also* Securities Exchange Act Release No. 57620 (April 4, 2008), 73 FR 19271 (April 9, 2008).

member.[181] Specifically, the broker or dealer could rely on that definition to determine whether, for purposes of amended Rule 15b9–1(c)(2), an order is in fact a stock-option order and a stock order is in fact the stock leg of a stock-option order. Moreover, the exemption would apply regardless of whether the component legs of a stock-option order are executed electronically, on the physical exchange floor, or through a combination of both. The Commission believes that approaching the proposed stock-option order exemption in this way should minimize disruptions to the markets for stock-option orders by minimizing the degree to which brokers and dealers that trade such orders would need to alter their business in order to rely on the proposed exemption.

Relying on the options exchange's definition also should enhance an exchange's ability to monitor whether its members are appropriately relying on the proposed exemption and thereby enhance its ability to provide effective SRO oversight of its members' stock-option order trading activity. Under options exchange rules, an exchange member submitting a stock-option order to the exchange must designate to the exchange one or more specific broker-dealers: (i) that are not affiliated with the exchange; (ii) with which the exchange member has entered into a brokerage agreement; (iii) that the exchange has identified as having connectivity to electronically communicate the stock components of stock-option orders to stock trading venues; and (iv) to which the exchange will electronically communicate the stock component of the stock-option order on behalf of the member.[182] The option exchange's execution of the stock-option order is contingent on the exchange's receipt from the designated broker-dealer of an execution report for the stock component transaction confirming that the transaction has occurred.[183] In light of these rules, the Commission preliminarily believes that there is a close link between the stock component transaction of a stock-option order and the relevant options exchange. Accordingly, the Commission believes that this proposed exemption would serve the limited, narrowly defined purpose of facilitating the execution of stock-option orders consistent with options exchange rules and that the options exchange would be able to monitor and oversee the totality of the securities trading activity of any of its members that rely on the exemption.

The Commission preliminarily believes that the exchange's oversight capabilities will be further enhanced, consistent with the public interest and protection of investors, by requiring written policies and procedures in connection with the stock-option exemption in proposed paragraph (c)(2) of the amended rule. This requirement would help facilitate exchange SRO supervision of brokers and dealers relying on the stock-option order exemption because it would provide an efficient and effective way for the relevant options exchange to assess compliance with the proposed exemption. Moreover, the Commission preliminarily believes that requiring brokers and dealers to develop written policies and procedures would provide sufficient flexibility to accommodate potentially varying business models of brokers and dealers that effect stock-option orders and may seek to rely on this exemption.

Such written policies and procedures must be reasonably designed to ensure and demonstrate that the broker's or dealer's securities transactions elsewhere than on an exchange of which it is a member are solely for the purpose of executing the stock leg of a stock-option order. Accordingly, a broker or dealer seeking to rely upon the proposed stock-option order exemption must establish, maintain, and enforce written policies and procedures reasonably designed to ensure and demonstrate that such transactions are solely for the purpose of executing the stock leg of a stock-option order. For example, the broker or dealer could maintain documentation that demonstrates its compliance with the stock-option order requirements of any options exchange of which it is a member and where it effects the execution of stock-option orders. Indeed, in addition to the Commission, the options exchange of which the broker or dealer is a member and where the stock-option order is handled would be able to enforce compliance with the stock-option order exemption. In the context of routine examinations of its members, the options exchange generally would review the adequacy of its members' written policies and procedures and assess whether its members' off-member-exchange transactions comply with those written policies and procedures as well as the terms of the exemption itself, as set forth in amended Rule 15b9–1.[184]

Finally, a broker or dealer seeking to rely on the stock-option order exemption would be required to preserve a copy of its policies and procedures in a manner consistent with Rule 17a–4 under the Exchange Act until three years after the date the policies and procedures are replaced with updated policies and procedures.[185] Accordingly, a broker or dealer would be required to keep the policies and procedures relating to its use of this proposed exemption as part of its books and records while they are in effect, and for three years after they are updated.

The Commission requests comment on all aspects of the proposed stock-option order exemption in Rule 15b9–1. In particular, the Commission seeks responses to the following questions:

23. Is the proposed stock-option order exemption necessary and appropriate? Why or why not? How, if at all, should this proposed exemption be modified?

24. Is the scope of the proposed stock-option order exemption sufficient to provide for all off-member-exchange transactions that might be effected by a broker or dealer as a necessary component of handling stock-option orders? If not, how should it be changed?

25. Should the proposed stock-option order exemption be broadened to cover transactions beyond those necessary to complete stock-option orders? If so, what types of additional transactions should be covered and why? Should the proposed exemption be narrowed in some way? Should the proposed stock-option order exemption be eliminated in its entirety?

26. Is the Commission's understanding correct that all stock-option orders must be QCTs? If not, what types of stock-option orders are not required to be QCTs? Should they be covered by the proposed exemption?

27. The proposed stock-option order exemption is limited to transactions

[181] Presumably, an options exchange would accept only those stock-option orders that meet the exchange's definition thereof. In addition, the Commission's understanding is that, currently, consistent with options exchange definitions, a stock-option order contains only one stock leg. *See supra* note 179. Therefore, the proposed stock-option order exemption is designed to cover stock-option orders with only one stock leg.

[182] *See, e.g.,* Cboe Rule 5.33(l) and Interpretations and Policies .04; Nasdaq ISE Options 3, Section 7 and Supplementary Material .01, Options 3, Section 14 and Supplementary Material .07; and MIAX Rule 518 and Commentary .01.

[183] *See, e.g.,* Cboe Rule 5.33(l); Nasdaq ISE Options 3, Section 7 and Supplementary Material .01, Options 3, Section 14 and Supplementary Material .07; and MIAX Rule 518 and Commentary .01.

[184] Section 19(g)(1) of the Act, 15 U.S.C. 78s(g), among other things, requires every SRO to examine for and enforce compliance by its members and associated persons with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to section 17(d), 15 U.S.C. 78q(d) or section 19(g)(2), 15 U.S.C. 78s(g)(2), of the Act.

[185] *See, e.g.,* 17 CFR 240.17a–4(e)(7).

effected with or through another registered broker-dealer. Are there circumstances where a broker or dealer that is not a FINRA member might not need to effect the execution of the stock leg of a stock-option order with or through another registered broker-dealer? Are there circumstances in which a broker or dealer that is not a FINRA member might need to effect the execution of the stock leg of a stock-option order with or through a party that is a registered broker-dealer but not a member of an exchange where the stock leg is executed, or not a member of an Association if the stock leg is not executed on an exchange? If so, please describe the nature and extent of such transactions.

28. Stock transactions effected in reliance on the exemption would still be subject to required transaction reporting. Would such reliance impede required transaction reporting in any way?

29. As proposed, the stock-option order exemption would cover stock-option orders with one stock leg and any number of options legs. Is this appropriate? Should the proposed stock-option order exemption be limited to two-leg stock-option orders where one leg is a stock and the other leg is an option? Why or why not? Do firms execute stock-option orders that contain multiple stock legs? If so, should the stock legs of such stock-option orders be covered by the proposed exemption?

*C. No Floor-Member Hedging Exemption*

As discussed above, the Commission adopted Rule 15b9–1 so that an exchange member's limited trading activity ancillary to its floor business on a single national securities exchange would not necessitate Association membership in addition to exchange membership.[186] Since that time, the securities markets have evolved to include significant, cross-market and off-exchange electronic proprietary trading as a primary business model. This business model did not exist when the Commission adopted Rule 15b9–1 in its current form, nor did firms engage in extensive off-member-exchange proprietary trading activity while exempt from Association membership by virtue of Rule 15b9–1.

Unlike today's proposed amendments, the 2015 Proposal would have provided an exemption from Association membership for a dealer that is an exchange member, carries no customer accounts, conducts business on the floor of a national securities exchange, and effects transactions off the exchange, for the dealer's own account with or through another registered broker or dealer, that are solely for the purpose of hedging the risks of its floor-based activity.[187] The Commission proposed that the hedging exemption be limited to a dealer's floor-based trading on a national securities exchange, and understood then that dealers that limit their activities to an exchange's physical trading floor tend to be specialists or floor brokers based on the floor of an individual exchange.[188] That proposed hedging exemption was intended to be consistent with the original intent of Rule 15b9–1 to accommodate only limited proprietary trading activity elsewhere than a broker's or dealer's member exchange(s) that is ancillary to the broker's or dealer's primary trading activity on its member exchange(s). But based on data available to the Commission today that was not available in 2015, the Commission believes that no dealers currently trade in a manner that would enable reliance on the hedging exemption as proposed in the 2015 Proposal, *i.e.,* no dealer's trading on an exchange of which it is a member is solely on the exchange's floor. Accordingly, the re-proposed rule does not include the hedging exemption included in the 2015 Proposal.[189]

Some commenters supported the proposed hedging exemption in the 2015 Proposal, but suggested that the exemption should not be limited to a dealer operating solely on a physical exchange floor, and also should cover off-member-exchange hedging transactions by dealers that trade electronically on their member exchange(s).[190] The Commission preliminarily believes that an exemption of this nature might swallow the amended rule, as proposed, and would not be appropriate. As discussed above, electronic trading dealer firms effect securities transactions proprietarily across market centers as a primary business model, including to a significant degree in the off-exchange market and on exchanges of which they are not a member.[191] The Commission acknowledges that it is unlikely that all of these firms' securities trading activity away from their member exchanges is to hedge their securities trading activity on their member exchanges. Thus, the off-member-exchange transaction volume attributable to these firms likely overstates the volume of transactions that would be attributable to firms who could rely on a hedging exemption that covered electronic trading activity as contemplated by commenters. The Commission cannot reliably discern from available data what off-member-exchange securities transactions effected by these firms are for hedging purposes and what transactions are not. But the Commission preliminarily believes that there are proprietary trading dealer firms that trade electronically and in significant volumes, including off any exchange where they are a member, which could potentially meet the criteria of a hedging exemption that covered electronic trading activity. Indeed, in light of the concentration of off-member-exchange securities transaction volume among certain firms, as discussed above, even if only a small number of firms could rely on a hedging exemption that covered electronic trading activity, it could translate into significant trading activity that would not be subject to direct FINRA oversight. This would not be consistent with the protection of investors or the public interest, or with the historical rationale for Rule 15b9–1.

Commenters more broadly suggested that the 2015 Proposal did not adequately consider options market makers or their hedging needs.[192] Some of these commenters' concerns appear to center on firms' needs in relation to their handling of stock-option orders.[193] As such, these concerns could be mitigated by the stock-option order

[186] *See supra* notes 60–62 and accompanying text.

[187] Currently, NYSE Arca Options, NYSE American Options, Nasdaq Phlx, Cboe, NYSE, and BOX Exchange have physical exchange floors.

[188] *See* 2015 Proposing Release, *supra* note 6, 80 FR at 18047.

[189] As described above, to the extent a stock transaction is a component of a stock-option order, and the broker or dealer handling the stock-option order otherwise meets the requirements of the proposed amended rule, that stock transaction would not trigger Section 15(b)(8)'s Association membership requirement.

[190] *See, e.g.,* CHX Letter at 3; CTC Letter at 7; Cboe Letter at 2–3; Options Market Makers Letter at 4; and Cboe/NYSE/Nasdaq Letter at 2–3.

[191] *See supra* Section II.B.

[192] *See, e.g.,* Options Market Makers Letter at 1; CTC Letter at 1; CHX Letter at 3; Cboe Letter at 2–3; Cboe/NYSE/Nasdaq Letter at 2–3; NYSE/Nasdaq Letter at 2–4; Letter from Reps. Bill Foster and Randy Hultgren, Members of U.S. Congress (Nov. 15, 2016) at 2.

[193] *See, e.g.,* NYSE/Nasdaq Letter at 2–4; Cboe Letter at 3; Cboe/NYSE/Nasdaq Letter at 4. For example, one commenter expressed concern that the 2015 Proposal would ''unintentionally require [options] floor brokers, which have a business focused on the floor of an exchange in which they are members, to become members of FINRA'' and specifically noted that this ''could restrict floor brokers from fulfilling stock-option orders. . .[b]ecause the stock component of a stock-option order cannot be executed on the options exchange of which a floor broker is a member.'' NYSE/Nasdaq Letter at 2. This commenter suggested that any amendment ''maintain floor brokers' ability to route the stock leg of a stock-option order for execution on another market by a member of the away market without requiring the floor broker to become a member of FINRA.'' NYSE/Nasdaq Letter at 4; *see also* Lakeshore Letter at 2.

exemption that the Commission is proposing to include in amended Rule 15b9–1.[194]

The Commission requests comment on its re-proposed approach of not providing a hedging exemption in amended Rule 15b9–1. In particular, the Commission seeks responses to the following questions:

30. Should the Commission adopt a hedging exemption outside the context of the proposed stock-option order exemption? Why or why not? Would it be apparent whether a securities transaction is for hedging purposes?

31. Should the Commission adopt a hedging exemption (in addition to the proposed stock-option order exemption) that applies to a dealer that is a member of multiple exchanges? Why or why not? Should the Commission allow firms to rely on any such exemption only if they effect hedging transactions in securities on exchanges where they are not a member (*i.e.,* off-exchange transactions, even if solely for purposes of hedging a single exchange member's trading activity on that exchange, would not be covered by the exemption)? Why or why not?

32. Should the Commission adopt a hedging exemption that covers off-member-exchange transactions to hedge on-member-exchange electronic transactions and physical exchange floor transactions, just on-member-exchange physical exchange floor transactions or just on-member-exchange electronic transactions? Why would one of these possible approaches be preferable to another? Under each possible approach, how difficult would it be to discern what off-member-exchange securities transactions by electronic trading firms are for hedging purposes? The Commission specifically seeks data that demonstrates the extent to which exchange member dealer firms trade elsewhere than on their member exchange(s) in order to hedge the risks of their trading activities on their member exchange(s).

33. Are there non-floor-based exchange members that today focus their business activities on a single exchange? Are there floor-based exchange members that today focus their business activities on a single exchange? If so, what is the nature of each firm's business activities?

34. Should the Commission adopt a hedging exemption in the amended rule that requires a dealer seeking to rely on the exemption to establish, maintain, and enforce written policies and procedures reasonably designed to ensure and demonstrate that its off-member-exchange hedging transactions reduce or otherwise mitigate the risks of the financial exposure the dealer incurs as a result of its on-member-exchange activity? Why or why not? What would be the costs of establishing, maintaining, and enforcing the policies and procedures, and any related record-keeping requirements? How are such costs determined? Please provide evidence of the nature, timing, and extent of such costs. Would such costs deter dealers from relying on the hedging exemption? Are there more efficient and effective alternatives to a policies and procedures approach? If so, what are they? Please describe in detail.

35. Would current exchange surveillance and enforcement mechanisms be effective to monitor off-member-exchange trades that would be executed pursuant to a possible hedging exemption? Could this be accomplished through 17d–2 plans and RSAs? Please explain. Would exchanges otherwise have the ability to assess dealers' compliance with a hedging exemption? If not, should the Commission require additional reporting by registered broker-dealers acting as an agent for dealers relying on a hedging exemption? Please explain.

36. Should the Commission adopt a hedging exemption that is subject to quantitative limits on the volume of hedging transactions that a firm may execute in reliance on such an exemption? Could qualitative or quantitative requirements assist in identifying off-member-exchange activity that is solely for the purpose of hedging? Please explain.

37. Should the Commission adopt a hedging exemption that requires the exchange member to retain records demonstrating how each off-member-exchange transaction complies with its policies and procedures? Why or why not? What would be the associated costs, and what is the basis for those costs? Would the cost associated with recordkeeping on a transaction-by-transaction basis be overly burdensome, impractical, or unnecessary?

38. Should the Commission adopt a hedging exemption that requires dealers to make a certification in connection with their reliance on the hedging exemption? Why or why not? If a certification should be required, what would be the key elements thereof? How frequently should the certification be made? Who should make it? What qualifications, if any, to such certification might be appropriate? For example, should firms be required to certify that they have a reasonable basis to believe that they are in compliance with a hedging exemption? Or should they be required to make such a certification to the best of their knowledge? Is there a different standard that would be appropriate? Should the certification be made in conjunction with an internal compliance review? If so, what type of internal compliance review should be conducted?

39. Would not adopting a hedging exemption affect liquidity on any national securities exchange?

## IV. Effective Date and Implementation

The Commission recognizes that firms may need time to comply with any amended Rule 15b9–1 if adopted. In particular, they may need time to become a member of an Association. As noted previously, FINRA is currently the only Association. To become a FINRA member, a broker or dealer must complete FINRA's New Member Application and participate in a pre-membership interview.[195] The broker or dealer and its associated persons must comply with FINRA's registration and qualification requirements.[196] The amount of time that it takes to become a FINRA member depends on a number of factors, including the nature of the broker's or dealer's business, the level of complexity or uniqueness of the firm's business plan, the number of associated persons that the firm employs, and whether the firm has an affiliate that is already a member of FINRA.[197] The Commission understands that, on average, the FINRA membership application process takes approximately six months.

Alternatively, broker-dealer firms that currently rely on Rule 15b9–1 and carry no customer accounts may choose to adjust their business model or

[194] In addition, Section 15(b)(9) of the Act provides the Commission with the authority, by rule or order, and as it deems consistent with the public interest and the protection of investors, to conditionally or unconditionally exempt from the requirements of Section 15(b)(8) any broker or dealer or class of brokers or dealers. Accordingly, if a dealer or class of dealers believes that it should be exempted from the requirements of Section 15(b)(8) in a manner that is not provided by amended Rule 15b9–1, it may seek an exemption from the Commission, by order, pursuant to Section 15(b)(9). For example, the Commission may consider granting such an exemption, where appropriate, if a dealer or class of dealers chooses to limit its exchange trading activity to the physical floor of an exchange of which it is a member, but must effect limited securities transactions elsewhere for its own account in order to facilitate its exchange-floor business.

[195] *See* FINRA.org, How to Apply, *available at https://www.finra.org/registration-exams-ce/broker-dealers/how-apply* (last visited on July 22, 2022).

[196] *See* FINRA Rule 1010—Electronic Filing Requirements and Uniform Forms, which sets out the substantive standards and procedural guidelines for the FINRA membership application and registration process.

[197] *See* Section VI.C.2, *infra,* discussing the costs of joining FINRA.

organizational structure such that they effect securities transactions solely on national securities exchanges of which they are a member, and therefore comply with Section 15(b)(8) without needing to join FINRA or rely on any amended version of Rule 15b9–1 if adopted. This may require such firms to become a member of additional exchanges upon which they trade. Or, firms may need time to adjust their business models such that their securities transactions elsewhere than exchanges of which they are a member comply with the proposed amendments to paragraphs (c)(1) or (c)(2) if adopted, including establishing policies and procedures that would be required by proposed paragraph (c)(2). More broadly, broker-dealer firms may need to modify their systems or take other steps to achieve compliance with any amended rule if adopted.

The Commission preliminarily believes that one year after publication in the **Federal Register** of any amended version of Rule 15b9–1 that the Commission may adopt should provide firms with enough time to comply.[198] Therefore, the Commission proposes that the compliance date for amended Rule 15b9–1 would be one year after publication of any final rule in the **Federal Register**. The Commission solicits comment on the adequacy of this proposed implementation timeline. In particular, the Commission seeks responses to the following questions:

40. Would one year after publication of any final rule in the **Federal Register** provide firms with sufficient time to comply with amended Rule 15b9–1, if adopted? Would firms be in a position to comply with any final, amended rule earlier than one year after publication? Would a compliance period that is shorter or longer than one year be more appropriate? If so, how long should the revised compliance period be and why?

41. Would one year after publication of any final rule in the **Federal Register** provide firms with sufficient time to comply with Section 15(b)(8) of the Act by joining an Association? Would one year after publication of any final rule in the **Federal Register** provide firms that do not trade securities off-exchange with sufficient time to comply with Section 15(b)(8) of the Act by becoming a member of all national securities exchanges where they trade securities (if they are not already a member of all such exchanges)?

42. How long is the registration process with FINRA typically? How long would it take FINRA to process new membership applications from firms that join FINRA as a result of the proposed amendments, considering that many such firms may submit applications close in time to each other? Please include the estimated time to prepare the application as well as the estimated time for FINRA to process the application.

43. How long does it typically take to complete the application process with a national securities exchange? Please include the estimated time to prepare the application as well as the estimated time for an exchange to process the application.

44. To the extent a firm intends to rely on one or more of the exemptions in the amended rule, how long would it take such firm to make the required systems changes to comply? Are there other steps that would need to be taken to achieve compliance? If so, what is the estimated time to accomplish those steps? How long would it take a firm to establish the policies and procedures that would be necessary to rely on the stock-option order exemption?

45. To the extent a firm intends to adjust its business model or organizational structure such that it effects securities transactions only on an exchange of which it is a member, how long would it take such firm to make such an adjustment? What systems or other changes would be required?

## V. General Requests for Comments

The Commission seeks comment on all aspects of the proposed amendments to Rule 15b9–1. Commenters should, when possible, provide the Commission with data to support their views. Commenters suggesting alternative approaches should provide comprehensive proposals, including any conditions or limitations that they believe should apply, the reasons for their suggested approaches, and their analysis regarding why their suggested approaches would satisfy the objectives of the proposed amendments.

46. The Commission requests comment generally on whether the proposed amendments to Rule 15b9–1 are appropriate. How, if at all, should the proposed amendments be modified? Should either of the proposed exemptions from Association membership set forth in proposed paragraphs (c)(1) and (c)(2) of the amended rule be eliminated? If so, why? For example, should the Commission maintain the proposed routing exemption, but not maintain the proposed stock-option order exemption? Why or why not? Should the Commission maintain the proposed stock-option order exemption, but not the routing exemption? Why or why not?

47. Should the Commission eliminate Rule15b9–1 in its entirety, such that there is no exemption from Section 15(b)(8) of the Act? Broker-dealers would then be statutorily required by Section 15(b)(8) of the Act, without exception, to join an Association if they effect securities transactions otherwise than on an exchange where they are a member. In other words, a broker-dealer that effects transactions in securities otherwise than on an exchange of which it is a member would have to join FINRA even if its transactions result solely from orders that are routed by an exchange of which it is a member to comply with order protection requirements or are solely for the purpose of executing the stock leg of a stock-option order. What would be the benefits or drawbacks of eliminating Rule 15b9–1 in its entirety? Please explain.

48. Should the Commission amend Rule 15b9–1 to capture only those broker-dealers that are exchange members but not FINRA members that account for the high degree of concentration of off-exchange listed equities volume? For example, the Commission estimates that, as of September 2021, 13 of the 47 identified firms that initiated orders in listed equities then accounted for approximately 94% of the off-exchange listed equities transaction volume attributable to the 47 identified firms that month. If so, what methodology should be used to select the most significant firms?

49. Other than the proposed routing exemption and stock-option order

[198] In the 2015 Proposal, *supra* note 6, the Commission solicited comment on the appropriate length of time that it should provide firms to comply with the then-proposed amended version of Rule 15b9–1. In this regard, the Commission also solicited comment on the FINRA membership process. Some commenters stated that one year generally is sufficient to join FINRA. *See, e.g.,* IEX Letter at 3. Other commenters requested more time or requested that the Commission require FINRA to develop a ''fast track'' application process. *See, e.g.,* FIA 2 Letter at 5. Another commenter suggested a waiver process for a proprietary trading firm that is registered with the Commission and an SRO, if the firm's information has not materially changed from the time it registered with such entities, and so long as the firm remains in good standing with the Commission and other regulators. *See* Peak6 Letter at 2. FINRA stated that it tentatively believed that most broker-dealer firms that are not FINRA members ''are already members of an exchange and are engaged solely in proprietary trading activity'' and would be candidates for its ''fast track/triage program'' which has an average processing time of 60 days for membership. *See* FINRA Letter at 5–6. As reflected in the requests for comment in this section, the Commission again solicits comment from FINRA and exchanges regarding the length of time of the membership application and approval process, and from any interested parties generally regarding the appropriate length of time for compliance with the proposed amendments to Rule 15b9–1 if they are adopted.

exemption set forth in proposed paragraphs (c)(1) and (c)(2) of the amended rule, respectively, are there other exemptions that the Commission should consider?

50. How might dealers that currently rely on Rule 15b9–1's *de minimis* allowance and proprietary trading exclusion respond to the proposed elimination of these provisions from the amended rule? Might they seek to avoid Association membership in ways other than complying with the exemptions in the amended rule, *i.e.,* are there ways they could avoid Association membership other than by ceasing all off-exchange activity and becoming a member of each exchange on which the firm effects securities transactions, or limiting the firm's securities transactions elsewhere than an exchange where it is a member such that they comply with the routing exemption or stock-option order exemption? If so, please explain.

51. Reliance on Rule 15b9–1 is currently self-effecting (*i.e.,* the rule does not require the reporting of such reliance to the Commission or any other regulatory authority). In lieu of the proposed amendments, should the Commission require broker-dealers relying on Rule 15b9–1 to report such reliance to the Commission or to the exchange of which the broker-dealer is a member? How frequently should such reporting occur? If so, what form should such reporting take and what information should be provided to the Commission or the exchange of which the broker-dealer is a member? For example, should a broker-dealer be required to report in writing to its member exchange and/or the Commission whether it is relying on Rule 15b9–1, and should information such as transactional volume be provided, or information on the type or categories of securities traded? If not, why not and what alternative means could be used to collect data about reliance on Rule 15b9–1?

52. If the Commission were to eliminate Rule 15b9–1 altogether, how many broker-dealers would: (i) effect securities transactions only on national securities exchanges of which they are already member; (ii) become members of additional national securities exchanges such that they are not required to join an Association; and/or (iii) become members of an Association?

53 Would the proposed amendments have an effect on market liquidity? If so, please estimate that effect. Would there be any deleterious impacts on market quality? Would there be positive impacts on market liquidity or market quality more broadly?

54. Should the Commission allow broker-dealers that are a member of an exchange and conduct off-exchange trading activity to remain exempt from membership in an Association? If so, why? Should the level of off-exchange activity affect the ability of a firm to be exempt from Association membership? Why or why not?

55. Does the CAT plan mitigate the need for the proposed amendments to Rule 15b9–1? If so, how? Would it be appropriate and feasible to modify CAT reporting to accomplish any of the goals of amended Rule 15b9–1?

56. Do existing 17d–2 plans and RSAs among SROs mitigate the need for the proposed amendments to Rule 15b9–1? If so, how? Do commenters agree that RSAs are subject to change and may not in the future provide the stability of FINRA oversight? How frequently are RSAs typically renegotiated?

57. Is Association membership an efficient or effective approach for the regulation of firms that trade across multiple exchanges but do not trade off-exchange? Are there more effective alternatives?

58. Under the proposed amendments to Rule 15b9–1, a broker-dealer that does not effect securities transactions off an exchange, but currently effects securities transactions on an exchange of which it is not a member, would be required either to join an Association or become a member of each exchange where it effects securities transactions, unless its exchange trading is covered by an exemption in the proposed amended rule. Should the proposed amendments be revised to provide an exemption from Section 15(b)(8) of the Act to permit such a firm, with no off-exchange trading, to remain exempt from membership in an Association and continue trading on exchanges of which it is not a member even if that trading activity would not satisfy one of the proposed exemptions in the amended rule? Should any such approach be based on certain conditions being met, such as any exchange of which the firm is a member entering into appropriate contractual or self-regulatory responsibility sharing arrangements such that an exchange SRO is in a position to effectively surveil all of the trading activities of that firm?

59. If the proposed rule amendments are adopted, proprietary trading broker-dealers that are not currently FINRA members may join FINRA. Would this affect FINRA's governance or its performance of its regulatory or supervisory functions?

60. Are there other changes the Commission should make to Rule 15b9–1? If so, why? What specifically should be changed and how? How would any such changes better achieve the stated goals of the proposal?

## VI. Economic Analysis

The Commission is proposing to amend Rule 15b9–1 to re-align it with today's market so that the regulatory scheme more appropriately effectuates Exchange Act principles regarding complementary exchange SRO and Association oversight. Currently, a broker or dealer may engage in unlimited proprietary trading in the off-exchange market without becoming a member of an Association, so long as its proprietary trading activity is conducted with or through another registered broker or dealer.

However, the Exchange Act's statutory framework places SRO oversight responsibility with an Association for trading that occurs elsewhere than on an exchange to which a broker or dealer belongs as a member.[199] Currently, nearly all equity activity of non-FINRA member broker-dealers is surveilled by FINRA through the extensive use of RSAs. However, RSAs are voluntary, privately negotiated agreements that can expire or be terminated, and accordingly, these agreements do not provide the consistent and stable oversight that direct Association oversight of such trading activity does.[200] For example, of the current FINRA RSA contracts: six RSA contracts expire by the end of 2023, two RSA contracts expire by the end of 2024, and three RSA contracts expire by the end of 2025 unless extended or terminated early.[201] The amendments would provide consistency and stability of oversight in the future.

In the case of U.S. Treasury securities and other fixed income securities (other than municipal bonds) [202] that trade off-exchange, surveillance relies on TRACE data which is collected by FINRA from its members. Some dealer firms that are not FINRA members are significantly involved in trading U.S. Treasury securities [203] proprietarily but are not

[199] *See* Section I, *supra.*

[200] *See* Section I, *supra.*

[201] Based on information provided by FINRA.

[202] Municipal bond trades are reported to the MSRB but not TRACE, so the Commission does not expect the proposed amendments to affect the data collected on municipal bonds. Off-exchange trading of both listed and unlisted equities by non-FINRA member broker-dealers is already reported to CAT.

[203] The Commission can observe and quantify some of this activity through the reporting of U.S. Treasury securities on covered ATSs as discussed in section II.B. *See supra* note 96. Because there is no analogous reporting regime in other fixed income securities, the Commission cannot similarly describe non-member broker-dealer activity in these other securities, but it is likely that non-member broker-dealers also trade fixed-income securities

required to report these transactions because they are not FINRA members. Consequently, trades that do not occur on an ATS that are between two non-FINRA member broker-dealers are not reported to TRACE at all and trades that occur on an ATS that is not a covered ATS do not specifically identify the non-FINRA member in the information reported by the ATS to TRACE.[204]

The Exchange Act presents exchange SROs and Associations as complements, providing for member-based supervision both on and off-exchange. The proposed amendments would rescind the *de minimis* allowance and proprietary trading exclusion so that the regulatory scheme more appropriately effectuates Exchange Act principles regarding complementary exchange SRO and Association oversight in today's market.[205] For firms currently relying on the exemption that would be required to register with FINRA under the proposed amendments, joining FINRA will expose them to additional costs that they previously did not incur.[206] While reliance on the exemption may be cost-efficient for these firms, it introduces inefficiencies for exchange SROs, FINRA, and regulatory oversight more generally. FINRA, the sole Association, has a rulebook, surveillance infrastructure, and supervisory expertise that is targeted to off-exchange trading of both listed and unlisted securities. Without an RSA, when FINRA detects potentially violative behavior by a non-FINRA member firm, it can and does refer such cases to other SROs or the SEC. However, it lacks certain investigative tools, which could help it further investigate potentially violative behavior before making such referrals. As such, FINRA referrals could be premature. In addition, RSAs with FINRA are privately negotiated contracts that can differ from exchange to exchange and the administrative and operational burdens create inefficiencies in investigating potential non-compliance. As such, oversight through an RSA is not equivalent to direct oversight by FINRA of its members. The Commission believes that, particularly in the case of fixed income trading, FINRA is the SRO best positioned to efficiently investigate such instances because of its TRACE data collection and expertise in such trading, and such a role is consistent with the SRO structure mandated by the Exchange Act.

The Commission discusses below a number of economic effects that are likely to result from the proposed amendments.[207] As discussed in detail below, the effects are quantified to the extent practicable. Although the Commission is providing estimates of direct compliance costs where possible, the Commission also anticipates that brokers and dealers affected by the amendments, as well as competitors of those broker and dealers, may modify their business practices regarding the provision of liquidity in both off-exchange markets and on exchanges. Consequently, much of the discussion below is qualitative in nature, but where possible, the Commission has provided quantified estimates.[208] To the extent that non-FINRA member firms change their business practices, by reducing or eliminating their off-exchange trading activity, the proposal may impact competition and harm liquidity, particularly in the off-exchange market. The proposal would increase costs for non-FINRA member firms that will have to register with FINRA, which may result in decreased liquidity from their orders. Additionally, the amendments to Rule 15b9–1 may create incentives for non-FINRA member firms that are impacted by the amendments to form a new Association.

### *A. Baseline*

#### 1. Regulatory Structure and Activity Levels of Non-FINRA Member Firms

The Exchange Act governs the way in which the U.S. securities markets and its brokers and dealers operate. Section 3(a)(4)(A) of the Act generally defines a ''broker'' broadly as ''any person engaged in the business of effecting transactions in securities for the account of others.'' [209] In addition, Section 3(a)(5)(A) of the Act generally defines a ''dealer'' as ''any person engaged in the business of buying and selling securities . . . for such person's own account through a broker or otherwise.'' [210]

Generally, any broker-dealer that wants to interact directly on a securities exchange must register with the Commission as a broker-dealer before applying to gain direct access to the exchange.[211] There is diversity in the size and business activities of brokers and dealers. Carrying brokers and dealers hold customer funds and securities; some of these are also clearing brokers and dealers that handle the clearance and settlement aspects of customer trades, including record-keeping activities and preparing trade confirmations.[212] However, of 3,528 registered brokers and dealers, only 156 were classified as carrying or clearing brokers and dealers during the fourth quarter of 2021. Thus, the majority of brokers and dealers engage in a wide range of other activities, which may or may not include handling customer accounts. These other activities include intermediating between customers and carrying/clearing brokers; dealing in government bonds; private placement of securities; effecting transactions in mutual funds that involve transferring funds directly to the issuer; writing options; acting as a broker solely on an exchange; and providing liquidity to securities markets, which includes, but is not limited to, the activities of registered market makers.

other than U.S. Treasury securities and these transactions are also not reported to TRACE. This Economic Analysis focuses on the effects on equities, options, and U.S. Treasury securities markets. To the extent that non-FINRA member broker-dealers do trade in additional asset classes, the Commission believes that the economic impacts discussed herein would also apply. In particular, if a non-FINRA member broker-dealer does trade in an asset class which requires reporting to FINRA, the proposal would improve transparency for these securities, which would enhance the regulatory oversight of such activity.

[204] *See* section II.B, *supra*. The Commission preliminarily believes this is a small fraction of U.S. Treasury securities trading. In April 2022, the Commission estimates that non-FINRA member firms' U.S. Treasury securities transactions executed on covered ATSs accounted for 2.5% of total U.S. Treasury securities transaction volume reported to TRACE that month. *See supra* note 94. The unreported trades involving only non-FINRA member firms that are not executed on covered ATSs might be similar but could be a lower fraction of the total U.S. Treasury securities volume. The Commission believes that all fixed income trading should be reported. The Commission also believes that firms that can observe other firms' trades and not report their own trades may have a competitive advantage, the cost of which is borne by the investing public through reduced price discovery.

[205] *See* section II.B, *supra*.

[206] FINRA member firms that compete with these firms may be at a cost disadvantage due to this fee disparity.

[207] The Commission is sensitive to the economic effects of its rule, including the costs and benefits and effects on efficiency, competition, and capital formation. Section 3(f) of the Exchange Act requires the Commission, whenever it engages in rulemaking pursuant to the Exchange Act, to consider or determine whether an action is necessary or appropriate in the public interest, and to consider, in addition to the protection of investors, whether the action would promote efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f). In addition, section 23(a)(2) of the Exchange Act requires the Commission, when making rules under the Exchange Act, to consider the effect such rules would have on competition. *See* 15 U.S.C. 78w(a)(2). Exchange Act Section 23(a)(2) prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

[208] *See infra* section VI.C. for further discussion of the difficulties in estimating market quality effects likely to result from the amendments.

[209] 15 U.S.C. 78c(a)(4)(A).

[210] 15 U.S.C. 78c(5)(A).

[211] A firm that wishes to transact business upon an exchange without becoming a broker or dealer can do so by engaging a broker-dealer that is a member of that exchange to provide market access and settlement services.

[212] Based on December 2021 FOCUS data.

Most brokers and dealers are small, with 66% of brokers and dealers employing 15 or fewer associated persons and only 10% of brokers and dealers employing over 100 associated persons.[213] Further, while there are many registered brokers and dealers, a small minority of brokers and dealers controls the majority of broker and dealer capital and each play a significant role in the allocation of capital to liquidity provision.[214]

The Commission has identified 65 firms that, as of April 2022, were Commission registered broker-dealers and exchange members, but not members of FINRA, that may be required to either join an Association or change their trading practices under the proposed amendments.[215] To the extent that the definitions of ''dealer'' and ''government securities dealer'' might change, the number of affected firms could increase.[216] Because of Rule 15b9–1's exclusion of proprietary trading, a dealer that does not carry customer accounts may not be required to join an Association as long as they are a member of an exchange SRO, even when that dealer has substantial off-exchange trading activity.

In September 2021, there were 66 registered broker-dealers that were exchange members but not FINRA members.[217] The Commission is aware that some non-FINRA member firms trade U.S. Treasury securities. Covered ATSs report the U.S. Treasury securities trading activity of non-FINRA-member firms to TRACE. The Commission estimates that, in 2021, four of the 66 non-FINRA member firms had $7 trillion in U.S. Treasury securities volume reported to TRACE by covered ATSs. This accounts for approximately 2% of U.S. Treasury volume as reported to TRACE throughout the year. In April 2022, there were three non-FINRA member firms with approximately $700 billion in U.S. Treasury securities volume executed on covered ATSs or approximately 2.5% of total U.S. Treasury securities transaction volume reported to TRACE that month.

FINRA members are required to report transactions in TRACE-eligible securities. Market participants can gain real-time access to TRACE through market vendors, for most TRACE-eligible securities, with a few exceptions including U.S. Treasury securities.[218] However, FINRA does make public aggregate U.S. Treasury securities data on a weekly basis.[219] Non-FINRA member firms are not required to report their trading activity to TRACE. With respect to trading activity in U.S. Treasury securities markets on a covered ATS, non-FINRA member counterparties are identified in TRACE.[220] With respect to trading activity in other TRACE-eligible securities, non-FINRA member counterparties are not identified in TRACE. Therefore, the Commission is unable to estimate the level of trading activity of non-FINRA member firms for other fixed income securities, and cannot reasonably assume either significant or insignificant unreported volume. However, based on the non-FINRA member firms' activity in U.S. Treasury securities markets, some non-FINRA member firms are likely to be active in other fixed income markets as well.

In September 2021, of the 66 non-FINRA member firms, 47 initiated equity orders that were not executed on an exchange, accounting for $789 billion (approximately 9.8%) in off-exchange traded dollar volume in listed equities.[221] In April 2022, of the 65 non-FINRA member firms, 43 initiated equity orders that were not executed on an exchange, accounting for $441 billion (approximately 4.6%) in off-exchange traded dollar volume in listed equities.

There is significant diversity in the business models of non-FINRA member firms. Some non-FINRA member firms may limit their equity trading to a single exchange, while others trade on multiple venues including off-exchange venues such as ATSs. Some firms are significant contributors to both off-exchange and exchange volume. Because CAT requires reporting of all NMS stock trades, including off-exchange trades, FINRA and the Commission are able to quantify the aggregate off-exchange activity of non-FINRA member firms.

Off-exchange equity trading occurs across many trading venues. In quarter 3 of 2021, 32 ATSs actively traded NMS stocks, comprising 9.6% of NMS stock share volume. Furthermore, 187 named[222] broker-dealers transacted a further 33% of NMS stock share volume off-exchange without the involvement of an ATS. Although many market participants provide liquidity within this market, non-FINRA member firms are particularly active within ATSs.[223] Although non-FINRA member firms may trade in the non-ATS segment of the off-exchange market, the Commission believes they rarely act as liquidity suppliers outside of ATSs because they do not carry customer accounts that might generate orders they could fill from inventory.

While some non-FINRA member firms trade actively off-exchange, some of these firms also supply and demand liquidity actively on multiple equity and options exchanges. Table 1 below shows the executed dollar volume in listed equities by trading venue type during September 2021 and April 2022 for the non-FINRA member firms. Table 2 below shows the executed dollar volume, number of trades, and number of contracts in options during September 2021 and April 2022 for the non-FINRA member firms.

TABLE 1—NON-FINRA MEMBERS NMS EQUITY TRADING VOLUME BY VENUE TYPE

| | Traded dollar volume | | | |
|---|---|---|---|---|
| | Sept 2021 | | April 2022 | |
| | Billions ($) | % of Total | Billions ($) | % of Total |
| *I. All Non-FINRA Member Firms*[1] | | | | |
| Trading Venue: | | | | |

[213] Based on December 2021 Annual FOCUS data filings. *See also supra* note 136.

[214] *See infra* section IX.

[215] Historically, floor brokers had only incidental trading on exchanges of which they were not members, and limited off-exchange trading activity. The background and history of Rule 15b9–1 are discussed in section I.

[216] *See supra* note 155 and accompanying text.

[217] *See supra* note 74.

[218] *See* FINRA.org, TRACE at 20—Reflecting on Advances in Transparency in Fixed Income, *available at https://www.finra.org/media-center/blog/trace-at-20-reflecting-advances-transparency-fixed-income* (last visited July 22, 2022). *See also* FINRA Rule 6750(c).

[219] *See supra* note 45 and accompanying text.

[220] *See supra* note 112 and accompanying text.

[221] *See supra* section II.B for further discussion of trading activities of non-FINRA member firms.

[222] ATSs often report the MPID of counterparties that are not FINRA members, allowing their activity to be partially identified in CAT data.

[223] *See* Table 1 for information on trading activities on ATSs.

TABLE 1—NON-FINRA MEMBERS NMS EQUITY TRADING VOLUME BY VENUE TYPE—Continued

| | Traded dollar volume | | | |
|---|---|---|---|---|
| | Sept 2021 | | April 2022 | |
| | Billions ($) | % of Total | Billions ($) | % of Total |
| Off-Exchange: ATS | 661.50 | 11.9 | 374.43 | 9.8 |
| Off-Exchange: Non-ATS | 127.50 | 2.3 | 66.57 | 1.7 |
| On-Exchange: Exchange Member[2] | 4,190.57 | 75.2 | 2,904.01 | 76.0 |
| On-Exchange: Cross-Exchange[3] | 592.29 | 10.6 | 475.30 | 12.4 |
| Total | 5,571.87 | 100.0 | 3,820.32 | 100.0 |
| *II. Largest Non-FINRA Member Firms*[4] | | | | |
| Trading Venue: | | | | |
| Off-Exchange: ATS | 629.41 | 12.9 | 345.56 | 10.9 |
| Off-Exchange: Non-ATS | 114.59 | 2.3 | 58.19 | 1.8 |
| On-Exchange: Exchange Member[2] | 3,622.30 | 74.1 | 2,384.36 | 75.1 |
| On-Exchange: Cross-Exchange[3] | 520.97 | 10.7 | 388.48 | 12.2 |
| Total | 4,887.27 | 100.0 | 3,176.59 | 100.0 |

Data Source: CAT.
[1] Non-FINRA Member firms that initiated orders that were executed either on or off-exchange. There were 47 firms in September 2021 and 43 firms in April 2022.
[2] Exchange Member refers to trades executed on an exchange where the Non-FINRA member is a registered member.
[3] Cross-Exchange refers to trades executed on an exchange where the Non-FINRA member is not a registered member.
[4] The largest Non-FINRA member firms ranked by off-exchange traded dollar volume. There were 13 firms in September 2021 and 12 firms in April 2022.

TABLE 2—NON-FINRA MEMBERS OPTIONS TRADING VOLUME BY VENUE TYPE

| | Traded dollar volume | | | |
|---|---|---|---|---|
| | Sept 2021 | | April 2022 | |
| | Millions ($) | % of Total | Millions ($) | % of Total |
| **Panel A: Option Dollar Volume** | | | | |
| *I. All Non-FINRA Member Firms*[1] | | | | |
| Trading Venue: | | | | |
| On-Exchange: Exchange Member[2] | 650.75 | 94.6 | 713.10 | 92.9 |
| On-Exchange: Cross-Exchange[3] | 37.09 | 5.4 | 54.45 | 7.1 |
| Total | 687.84 | 100.0 | 767.54 | 100.0 |
| *II. Largest Non-FINRA Member Firms*[4] | | | | |
| Trading Venue: | | | | |
| On-Exchange: Exchange Member[2] | 493.09 | 94.1 | 645.48 | 92.6 |
| On-Exchange: Cross-Exchange[3] | 31.05 | 5.9 | 51.37 | 7.4 |
| Total | 524.14 | 100.0 | 696.85 | 100.0 |
| | Trades | | | |
| | Sept 2021 | | April 2022 | |
| | Millions ($) | % of Total | Millions ($) | % of Total |
| **Panel B: Number of Trades** | | | | |
| *I. All Non-FINRA Member Firms*[1] | | | | |
| Trading Venue: | ..... | ..... | ..... | ..... |
| On-Exchange: Exchange Member[2] | 28.33 | 96.1 | 23.04 | 93.2 |
| On-Exchange: Cross-Exchange[3] | 1.14 | 3.9 | 1.67 | 6.8 |
| Total | 29.47 | 100.0 | 24.71 | 100.0 |
| *II. Largest Non-FINRA Member Firms*[4] | | | | |
| Trading Venue: | | | | |
| On-Exchange: Exchange Member[2] | 20.72 | 95.9 | 20.96 | 93.4 |
| On-Exchange: Cross-Exchange[3] | 0.89 | 4.1 | 1.49 | 6.6 |
| Total | 21.61 | 100.0 | 22.44 | 100.0 |

| | Contracts | | | |
|---|---|---|---|---|
| | Sept 2021 | | April 2022 | |
| | Millions ($) | % of Total | Millions ($) | % of Total |
| **Panel C: Number of Contracts** | | | | |
| *I. All Non-FINRA Member Firms*[1] | | | | |
| Trading Venue: | | | | |
| On-Exchange: Exchange Member[2] | 197.36 | 95.2 | 185.65 | 94.4 |
| On-Exchange: Cross-Exchange[3] | 9.97 | 4.8 | 10.93 | 5.6 |
| Total | 207.33 | 100.0 | 196.58 | 100.0 |
| *II. Largest Non-FINRA Member Firms*[4] | | | | |
| Trading Venue: | | | | |
| On-Exchange: Exchange Member[2] | 138.33 | 94.8 | 167.37 | 94.6 |
| On-Exchange: Cross-Exchange[3] | 7.65 | 5.2 | 9.57 | 5.4 |
| Total | 145.98 | 100.0 | 176.94 | 100.0 |

Data Source: CAT.
[1] Non-FINRA Member firms that initiated options orders that were executed. There were 42 firms in September 2021 and 35 firms in April 2022.
[2] Exchange Member refers to trades executed on an exchange where the Non-FINRA member is a registered member.
[3] Cross-Exchange refers to trades executed on an exchange where the Non-FINRA member is not registered member.
[4] The largest non-FINRA member firms ranked by equity off-exchange traded dollar volume. Nine of the largest 13 firms in September 2021 and nine of the largest 12 firms in April 2022 initiated options orders that were executed.

Table 1 shows that the majority of non-FINRA member firms executed listed equity orders (approximately 75%) on exchanges where the firm was a registered member. However, they also transacted on exchanges where the firm was not a member in addition to trading off-exchange. Table 2 shows the number of non-FINRA member firms that also executed trades in the options market and the total dollar, trades, and contract volume. In September 2021, forty-two non-FINRA member firms and nine of the 13 largest firms executed trades on options exchanges. Eight of the nine largest firms executed trades on seven or more options exchanges. In April 2022, 35 non-FINRA member firms and nine of the 12 largest firms executed trades on options exchanges.

2. Current Market Oversight

The surveillance and regulation of each broker or dealer is partially dependent upon its individual SRO membership status. Each SRO is required to examine for and enforce compliance by its members and associated persons with the Exchange Act, the rules and regulations thereunder, and the SRO's own rules, including, for exchange SROs, the rules on the trading that occurs on the exchange it oversees. Because of this, SROs that oversee an exchange generally possess expertise in regulating members who specialize in trading on their exchange and in using the order types that may be unique or specialized within the exchange. This expertise complements the expertise of an Association in supervising cross-exchange and off-exchange trading activity.[224]

While all exchanges are SROs and have access to CAT data covering trading activity by their members both on and off exchanges, currently nearly all equity activity and much options activity of non-FINRA member broker-dealers is surveilled by FINRA through the RSAs with exchange SROs. However, RSAs are voluntary, privately negotiated agreements that can expire or be terminated, and accordingly, these agreements may not in the future provide the consistency and stability of direct FINRA oversight. U.S. Treasury security trading and other fixed income trading,[225] however, is not covered by CAT; instead transactions in these securities are only reported to FINRA's TRACE database when there is a FINRA member that is party to the trade or the trade occurs on an ATS because such reporting results from a FINRA rule.[226] Where no FINRA member is party to the transaction, and the transaction does not take place on an ATS, it goes unreported to TRACE.

Some exchanges serve as DEA for certain of their members.[227] Financial and operational requirements share many commonalities across SROs, such as net capital requirements and books and records requirements. Because many brokers and dealers are members of multiple SROs with similar requirements, one SRO is appointed as the broker's or dealer's DEA to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[228] The exchange serving as DEA has regulatory responsibility for their common members' compliance with the applicable financial responsibility rules. However, the non-DEA exchange maintains responsibility for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices, although the SROs may also allocate other regulatory responsibilities.

All registered brokers and dealers are required to join an Association unless they effect transactions in securities solely on a national securities exchange of which they are a member or are

[224] *See supra* Section II, discussing the requirement for SROs to examine for and enforce compliance with the Exchange Act, and the rules and regulations thereunder.

[225] Municipal bond trades are not reported to TRACE.

[226] All ATSs are operated by FINRA member firms.

[227] *See supra* note 30.

[228] *See supra* note 30. *See* 17 CFR 240.17d–1. FINRA serves as the DEA for the majority of member firms; there are exceptions, mostly involving firms that have specialized business models that focus on a particular exchange that is judged to be best situated to supervise the member firm's activity. These firms are, however, subject to the same supervision of their trading activity as other member firms for whom FINRA does act as DEA, and the DEA stipulates which SRO has responsibility to supervise the firm but does not allow for less supervision. Under the amendments, non-FINRA member firms that join FINRA may or may not be assigned to FINRA for DEA supervision.

exempt from the membership requirement pursuant to Rule 15b9–1. The vast majority of brokers and dealers join an Association and, because FINRA is the only Association, brokers and dealers are subject to relatively uniform regulatory requirements and levels of surveillance and supervision. Supervision by FINRA, which is currently the only Association, covers a market that is fragmented across many trading venues, including the more opaque off-exchange market.[229] Additionally, FINRA oversees its member's activity in equity, fixed income, and derivative markets and thus has the ability to supervise asset classes that may be outside the expertise of certain exchange SROs.

The existing Association, FINRA, serves crucial functions in the current regulatory structure.[230] The Exchange Act's statutory framework places responsibility for off-exchange trading with an Association.[231] Pursuant to that, FINRA has established a regulatory regime for FINRA members, including FINRA members conducting business in the off-exchange market for various asset classes, and developed surveillance technology and specialized regulatory personnel to provide surveillance, supervision, and enforcement of activity occurring off-exchange. Consequently, the current regulatory structure achieves cross-market and off-exchange supervision through the surveillance actions of FINRA of the market generally and its examination of its members.

Additionally, despite the fact that FINRA does not have the authority to monitor non-FINRA member firms that are not covered by RSA or 17d–2 plans that include these services, the Commission understands that FINRA operates a cross-market regulatory program that covers 100% of equity trades and 45% of option trading.[232] FINRA does not have direct membership-based jurisdiction over non-FINRA member firms. However, FINRA refers cases for enforcement to the SRO with jurisdiction or to the Commission. If FINRA is performing regulatory services for an exchange SRO pursuant to an RSA, FINRA may, on behalf of the exchange SRO, investigate and bring an enforcement action against an exchange SRO member that is not a FINRA member, assuming that those services are covered by the RSA.[233] However, each RSA is independently negotiated and thus they are not standardized. Therefore, FINRA's ability to provide oversight can vary based on the nature of its regulatory services agreement with the exchange SRO. Additionally, the ultimate responsibility for that regulatory oversight still rests with the exchange SRO, not with FINRA.[234] SROs may also use 17d–2 plans which allow SROs with common members to designate a DEA to examine common members. However, 17d–2 plans do not confer jurisdiction as they apply only to common firms of which each SRO would already have jurisdiction.[235] Exchange SROs may not be efficient at monitoring off-exchange activity. Because of the historical reliance on FINRA as the examination and surveillance authority over off-exchange trading, exchanges have limited resources and may have incentives to prioritize the following up on potential violations of on-exchange activity over off-exchange activity. However, such incentives are likely curtailed by the exchange SROs' legal responsibilities under the Exchange Act to examine and enforce compliance by their members with the Exchange Act, the rules thereunder, and the SRO's own rules and the reputational damage they may experience if they do not.

Currently, some non-FINRA member firms transact heavily in the course of normal business activities within venues regulated by SROs of which they are not members. This activity is not limited to equities; non-FINRA member firms play a large role in U.S. Treasury securities markets as well.[236] In 2021, there were four non-FINRA member firms that together traded more than $7 trillion in U.S. Treasury securities volume on covered ATSs, which accounted for 2% of total U.S. Treasury securities trading volume [237] reported to TRACE. In April 2022, the Commission estimates that three non-FINRA member firms totaled $700 billion in U.S. Treasury securities volume executed on covered ATSs, which accounted for 2.5% of total U.S. Treasury securities transaction volume reported to TRACE that month.

This is very different from when Rule 15b9–1 was first adopted. The Act provides for regulation of exchange trading by the exchanges themselves; it further generally provides for supervision of off-exchange trading by an Association.[238]

SRO rules require their members to report CAT data daily.[239] This data records the origination, receipt, execution, routing, modification, or cancellation of every order a member firm handles for NMS stocks and options, with the exception of primary market transactions.

Because non-FINRA member firms are not required to join an Association if they qualify for an exemption, they are not required to pay the costs of Association membership, which could be significant, especially for non-FINRA member firms with substantial trading activity. FINRA members currently pay fees associated with FINRA membership including the annual Gross Income Assessment (GIA), the annual personnel assessment; and the TAF and Section 3 fees.[240] FINRA members pay the TAF for all sales transactions of covered securities that are not performed in the firm's capacity as a registered specialist or market maker upon an exchange.[241] FINRA members also must pay Transaction Reporting Fees for TRACE reportable securities, with the exception of U.S. Treasury securities.

The FINRA Section 3 fee is the second of two primary FINRA fees (the other being TAF) that are assessed upon each off-exchange sale by or through a FINRA member. Under Section 31 of the Act,[242] SROs must pay transaction fees based

[229] Comprehensive reporting requirements for all member firms that trade off-exchange give FINRA information on market activity levels and market conditions off-exchange. Because most off-exchange venues do not publicly disseminate information on the liquidity available in their systems, comprehensive information from all participants through CAT allows FINRA to analyze and surveil the off-exchange market. *See supra* notes 40–43.

[230] *See supra* Section II for further discussion of the role of Associations in market oversight.

[231] *See supra* note 8.

[232] *See* Cross-Market Regulatory Coordination Staff Paper, *supra* note 31.

[233] In most but not all cases, FINRA is empowered to take such actions.

[234] *See supra* note 109.

[235] *See supra* note 30.

[236] *See supra* Section VI.A.1 and accompanying text for more information on trading in U.S. Treasury securities markets.

[237] The Commission estimated that in July 2021 there were 626 total firms that traded U.S. Treasury securities. *See* Table 1 of Securities Exchange Act Release No. 94524 (March 28, 2022), 87 FR 23054, 23081 (April 18, 2022).

[238] *See supra* note 8.

[239] *See generally* FINRA Rule 6800 Series and 17 CFR 242.613.

[240] *See infra* Section VI.C.2.b. for more information on the fees.

[241] Covered securities include all equity, options and U.S. Treasury securities. For an explanation of what is included and exempt from the TAF, *see* FINRA Rules and Guidance, *available at https://www.finra.org/rules-guidance/rulebooks/corporate-organization/section-1-member-regulatory-fees.* After the 2015 Proposal, FINRA proposed an exemption that ''would exempt from the TAF transactions executed by proprietary trading firms on an exchange of which the firm is a member (including non-market maker trades).'' *See* FINRA Regulatory Notice 15–13, Trading Activity Fee (May 2015), at 3, *available at http://www.finra.org/sites/default/files/notice_doc_file_ref/Notice_Regulatory_15-13.pdf.* FINRA stated that the proposed exemption ''would result in a lower TAF for trades executed on an exchange for which the proprietary trading firm is a member than a trade executed elsewhere.'' *Id.* at 5. The proposed exemption to the TAF is not effective.

[242] 15 U.S.C. 78ee.

on the volume of their covered sales. These fees are designed to offset the costs of regulation incurred by the government—including the Commission—for supervising and regulating the securities markets and securities professionals. FINRA obtains money to pay its Section 31 fees from its membership, in accordance with Section 3 of Schedule A to the FINRA By-Laws. FINRA assesses these Section 3 fees on the sell side of each off-exchange trade, when possible. When the sell side of an off-exchange transaction is a non-FINRA member firm and the seller engages the services of a clearing broker that is a member firm, FINRA can assess the Section 3 fee against the member firm clearing broker.[243] When the seller is a non-FINRA member firm that self-clears, FINRA has no authority to assess the Section 3 fee against the seller. In such case, FINRA would seek to assess the fee against the buyer, if the buyer includes a member firm counterparty or a member firm acting as clearing broker for a non-FINRA member firm buy side counterparty. Firms that carry customer accounts are required to be a member of an Association and thus these firms bear the aforementioned fees. These costs may be passed on in part or in whole to the investing public or the non-FINRA member counterparty.

3. Current Competition To Provide Liquidity

The market for liquidity provision on equity exchanges is competitive. In September 2021 across all exchanges, each equity security had between 1 to 47 registered market makers providing liquidity. The median equity security had 3 registered market makers, and 75% of securities had 2 or more registered market makers. Twenty-five percent of equity securities had 6 or more registered market makers. Additionally, while the number of market makers provides a good indication as to the number of firms in the business of providing liquidity, it does not necessarily indicate whether each market maker is an active competitor. However, the Commission believes that many market makers actively compete to provide liquidity.

As stated above, non-FINRA member firms do not have the same regulatory costs as FINRA member firms, which may give non-FINRA member firms a competitive advantage in providing liquidity. As such, non-FINRA member firms may be able to provide liquidity at a lower cost than FINRA member firms given that non-FINRA member firms have a lower variable cost, all else equal, for trading compared to FINRA member firms.

The Commission believes that non-FINRA member firms are active participants in the market to provide liquidity in off-exchange markets. The Commission estimates that non-FINRA member firms account for between 4.6% and 9.8% of off-exchange dollar volume in equities. Additionally, nearly 10% of all non-FINRA member equity trading activity occurs in off-exchange markets. In U.S. Treasury securities markets, non-FINRA member firms trading activity that is reported by covered ATSs account for 2.5% of all transaction volume.

*B. Effects on Efficiency, Competition, and Capital Formation*

In addition to the specific, individual benefits and costs discussed below, the Commission expects the amendments may have varying effects on efficiency, competition, and capital formation. These effects are described in this section. The proposal may result in improved efficiency of capital allocation. To the extent that liquidity provision changes as a result of the proposal, market efficiency might be impacted. Additionally, the proposal would have mixed effects on competition to provide liquidity, as current non-FINRA member firms may be less likely to provide liquidity but current FINRA members may be more likely to provide liquidity. The Commission believes that the amendments would not likely have a meaningful effect on capital formation.

1. Firm Response and Effect on Market Activity and Efficiency

Although non-FINRA member firms could seek to comply with the amendments in multiple ways, each route could involve changes to firms' business models. Some non-FINRA member firms may limit their trading to exchanges of which they are members, and the Commission believes that some may not trade off-exchange other than to comply with Rule 611 of Regulation NMS or the Options Linkage Plan,[244] or to execute the stock leg of a stock-option order.[245] These firms would remain exempt from the requirement to become a member of an Association, if they comply with Section 15(b)(8) of the Act or the Rule as amended.[246] Other firms would no longer be exempt, and would need to take action to comply with the amended rule. Under the amended Rule, a non-FINRA member firm that trades equities, options or fixed income securities off-exchange, or upon exchanges of which it is not a member, can comply in four ways. The first option would be to join an Association. The second option would be to join all exchanges upon which the non-FINRA member firm wishes to trade, and to cease any off-exchange trading, other than off-exchange trading consistent with the routing exemption and stock-option order exemption. Third, a non-FINRA member firm could comply by trading solely upon those exchanges of which it is already a member, consistent with the statutory exemption in Section 15(b)(8).[247] Finally, a non-FINRA member firm could cease trading securities.

The changes non-FINRA member firms make to their business model to comply with the amendments may affect competition in the equity and U.S. Treasury securities markets, particularly for off-exchange liquidity provision. Non-FINRA member firms may be less willing to compete to provide liquidity off-exchange, decreasing off-exchange liquidity. For example, non-FINRA member firms may choose to cease their off-exchange activity rather than join an Association—although it is likely that firms that trade heavily in the off-exchange market may find it more costly to cease their off-exchange activity than to join an Association.[248] In addition, non-FINRA member firms that choose to join an Association may reduce their off-exchange trading because joining an Association would increase variable costs to trade in the off-exchange market, as these trades would incur TAF and possibly additional Section 3 fees, although some Section 3 fees may already be passed on from FINRA member firms to non-FINRA member firms.[249] An increase in cost would

[243] The seller's clearing broker may pass that fee on to the non-FINRA member firm.

[244] *See supra* section III.B.1.

[245] *See supra* section III.B.2.

[246] Changes to the exclusion are discussed in section III.B, *supra.*

[247] 15 U.S.C. 78*o*(b)(8).

[248] Firms with very low ATS activity are unlikely to directly connect to an ATS, instead accessing ATSs through a member firm. For firms with very limited off-exchange activity, ceasing off-exchange activity is likely to be less costly than joining an Association. The costs of joining FINRA are discussed in detail in *infra* section VI.C.2; for firms with very limited off-exchange activity, it is unlikely that the profits generated from this activity would offset FINRA membership costs. However, for firms that generate profits from off-exchange activities that exceed FINRA membership costs, it may be less costly to join FINRA than to cease their off-exchange activity.

[249] After the 2015 proposal, FINRA considered reevaluating the structure of the TAF to assure that it appropriately considered the business model of certain non-FINRA member firms that might have joined FINRA as a result of the proposed amendments. *See supra* note 153. The Commission's analysis of TAF is based on current

reduce the profitability of off-exchange trading and thus potentially reduce off-exchange trading. This sentiment was echoed by one commenter who stated that FINRA registration ''would greatly impede'' the entry of high frequency proprietary traders to the market.[250] While the Commission agrees that FINRA membership could act as a deterrent to new high frequency trading firms entering the marketplace as broker-dealers, the Commission also believes that access to our capital markets generally requires a certain level of oversight. The Commission believes that the proposal is consistent with the Exchange Act's statutory framework for complementary exchange SRO and Association oversight of broker-dealer trading activity and thus to the extent such firms are required to register with FINRA as a result of the proposal, the costs are justified as part of that regulatory oversight.

The Commission preliminarily believes that requiring membership in an Association, consistent with Rule 15b9–1, could facilitate an appropriate level of oversight. The Commission also recognizes that the loss of liquidity provision in off-exchange trading may impose costs on investors in the form of higher trading costs than they would otherwise realize. These effects may differ across asset classes. In the case of non-FINRA member broker-dealers trading U.S. Treasury securities, costs to join an Association include the costs of establishing TRACE reporting. Depending on the firm's activity level in that market, firms may be more likely to withdraw from that market if their anticipated profit levels from U.S. Treasury securities trading do not justify the additional reporting requirements. The impact on liquidity in U.S. Treasury securities markets is not likely to significantly impact investor costs to trade these securities because U.S. Treasury securities are generally very liquid and competition to provide this liquidity is robust. If some non-FINRA member broker-dealers stop competing in the market to provide this liquidity, other broker-dealers are likely to increase their activity in this market, but the Commission acknowledges that if liquidity decreases, investor costs to trade U.S. Treasury securities could increase.

Additionally, the removal of liquidity from the market could either improve or degrade execution quality on off-exchange markets.[251] Some institutional investors transacting in off-exchange markets may seek institutional investor counterparties and avoid transacting with proprietary trading firms. To this extent, the removal of non-FINRA member firm liquidity may be seen as improving liquidity quality within ATSs by some institutional investors.[252] It is also possible that reducing the activity of non-FINRA member firms within ATSs may result in more ATS liquidity, if non-FINRA member firms are acting as net takers of liquidity within these systems.[253] At a minimum, liquidity levels in ATSs may change. In addition, these firms may reduce their off-exchange trading outside of ATSs such as on single-dealer platforms. It is possible that this would result in a transfer of volume from off-exchange venues to exchanges, but it is also possible that overall market trading volume would diminish if decreased volume from off-exchange trading does not migrate to exchanges.

In response to the 2015 Proposal, several commenters expressed liquidity concerns.[254] One commenter stated that because it would be costly for high frequency trading firms to comply with FINRA regulations, these firms ''may not trade as frequently, reducing overall market liquidity.'' [255] Another commenter stated that proprietary traders provide liquidity and order to the markets and that disadvantaging small proprietary traders may harm the market balance.[256] A third commenter stated that it believes that ''unnecessary costs . . . could hinder competition among liquidity providers, which could negatively impact market liquidity and transaction costs.'' [257] Finally, one commenter stated that the current FINRA fee structure is imbalanced and risks stifling liquidity in the markets and that there are fewer incentives to provide the same liquidity under FINRA's proposed fee structure as there are under Cboe's regulatory fee structure.[258]

Changes in business models for non-FINRA member firms may affect market quality on exchanges as well. In addition to trading extensively in the off-exchange market, many non-FINRA member firms are among the most active participants on exchanges. Business model changes by these firms may lead to less exchange liquidity for several reasons. First, non-FINRA member firms that choose not to join an Association would no longer be able to rely on the rule and trade indirectly on exchanges of which they are not members, unless they comply with the routing or stock-options order exemptions.[259] Second, non-FINRA member firms that do not join an Association would no longer be able to access off-exchange liquidity to unwind positions acquired on exchanges, which may reduce their

TAF structure as outlined in the FINRA By-Laws, Schedule A. TAF and Section 3 fees are discussed further in Section VI.C.2.b, *infra*. Firms would also face additional fixed costs both to establish and maintain Association membership; those costs are discussed in Section VI.C.2, *infra*.

[250] *See* Letter from Michelle Pav (April 16, 2015) (''Pav Letter'') at 5. The commenter is concerned with how the duties of best execution and general suitability would apply to proprietary trading firms. *Id.* The commenter also states that the Commission ''clearly does not understand'' high frequency trading and FINRA does not have ''any more insight into what is happening at [high frequency trading] firms than the SEC.'' *Id.* at 2. Some proprietary trading firms are already members of FINRA. As a result, FINRA has experience addressing these issues. Additionally, the rule amendments would provide FINRA and the Commission with greater visibility into the activities of these firms.

[251] Non-FINRA member firms are likely to also reduce their off-exchange trading outside of ATSs, such as on single-dealer platforms. However, non-FINRA member firms can only take (not make) liquidity on these platforms. It is possible that additional off-exchange liquidity may be available outside of ATSs for other market participants as a result of the amendments to Rule 15b9–1 due to a reduction in non-FINRA member firm trading on single-dealer platforms.

[252] Industry white papers sometimes discuss the concept of natural counterparties for institutional trades. These papers may explicitly or implicitly identify proprietary automated trading firms as sources of information leakage in dark pools. The Commission understands that some ATSs segment orders so that institutional investors do not trade with PTFs. *See e.g.,* Hitesh Mittal, *Are You Playing in a Toxic Dark Pool? A Guide to Preventing Information Leakage,* J. Trading, Summer 2008, at 20 (ITG white paper), *available at https://jot.pm-research.com/content/3/3/20.* Other industry participants describe a more benign role for automated trading firms as liquidity providers in ATSs. *See* Terry Flanagan, *High-Speed Traders Go Dark,* Markets Media Commentary (2012), *available at https://www.marketsmedia.com/high-speed-traders-go-dark/.*

[253] There is some evidence that some proprietary trading firms are net takers rather than net suppliers of liquidity in equity markets, although the evidence is not conclusive. Using Nasdaq data from 2008–2010, Carrion estimates that these firms supply liquidity to 41.2% of trading dollar volume and take liquidity in 42.2% of trading dollar volume. *See* Allen Carrion, *Very fast money: High-frequency trading on the NASDAQ,* 16 J. Fin. Mkts. 680 (2013). Another study finds that electronic trading firms act as net liquidity suppliers during periods of extreme price movements. *See* Jonathan Brogaard, Allen Carrion, Thibaut Moyaert, Ryan Riordan, Andriy Shkilko & Konstantin Sokolov, *High Frequency Trading and Extreme Price Movements,* 128 J. Fin. Econ. 253 (2018).

[254] *See* Pav Letter, Hold Brothers Capital Letter, FIA 1 Letter, and PEAK6 Letter.

[255] *See* Pav Latter at 3.

[256] *See* Hold Brother Capital Letter at 4.

[257] *See* FIA 1 Letter at 3.

[258] *See* PEAK6 Letter at 3–4. This commenter further stated that FINRA fees ''may discourage such firms from routing trades to certain markets, thereby disrupting market efficiency.'' *Id.* at 4.

[259] Currently, a non-FINRA member firm can indirectly access an exchange of which it is not a member through a firm that is an exchange member. In light of the elimination of the exclusion for proprietary trading, this activity would not be consistent with the amendments, unless the activity complies with the routing or stock-option order exemptions. *See supra* sections III.B.1 and III.B.2.

willingness to provide liquidity upon exchanges.[260] Third, non-FINRA member firms that choose to join an Association may be subject to additional variable costs (primarily regulatory fees) on their exchange-based trading as well as on their off-exchange trading.[261] These firms may respond by trading less actively on exchanges. Finally, non-FINRA member firms may choose to cease trading rather than join an Association or change their business models. Reduced liquidity upon exchanges can result in higher spreads and increased volatility. Increased spreads on exchanges can lead to increased costs for off-exchange investors as well as investors transacting on exchanges, because most off-exchange transactions (including many retail executions) are derivatively priced with reference to prevailing exchange prices.

The Commission believes that the amendments are not likely to have an economically meaningful effect on direct capital formation, which is the assignment of financial resources to meet the funding requirements of a profitable capital project, in this case, the provision of liquidity to financial markets. However, the Commission believes that the changes in allocation of regulatory fees and direct FINRA supervision within the off-exchange market may result in improved efficiency of capital allocation by the financial industry. The proposed amendments may reduce the capital commitment of non-FINRA member firms to liquidity provision. In response, it is possible that current member firms may choose to commit additional capital to liquidity provision when the trading environment has more uniform regulatory requirements. The Commission believes that this may lead to an overall increased commitment of liquidity both to exchanges and the off-exchange market. This increased commitment is likely to have some positive effects on capital market efficiency, such as lower quoted spreads on exchanges. In addition to lowering immediate execution costs on exchanges, lower exchange quoted spreads are likely to reduce transaction costs off-exchange as well, because off-exchange trades are typically priced with reference to quoted exchange prices.

The Commission believes these effects are not likely to be significant because the market to provide liquidity is very competitive. These markets are served by a number of liquidity providers with different business strategies and a strategic change by relatively few competitors is unlikely to disturb liquidity provision overall.

2. Effect on Competition To Provide Liquidity

The proposed amendments may impact competition to provide liquidity by increasing the regulatory cost for current non-FINRA member firms. Currently, non-FINRA member firms do not bear the costs associated with FINRA membership. As such, FINRA member firms bear a number of costs not borne by non-FINRA member firms including a number of regulatory fees and indirect costs that are assessed or imposed upon member firms.[262] These costs are a part of equity, options and fixed income markets and include direct costs such as trading fees that are either assigned only to member firms, such as TAF, or in the case of Section 3 fees, member firms may be assigned costs that could be assigned to non-FINRA member firms selling securities off-exchange. There are indirect costs of disparate regulatory regimes as well.[263] Under the proposed amendments current non-FINRA members would become subject to the regulatory costs associated with FINRA membership, including TAF, GIA and Section 3 fees. These changes to regulatory costs for non-FINRA member firms may change competitive forces in the market for providing liquidity as the current non-FINRA member broker-dealers have lower regulatory costs, which may make it less costly for non-FINRA member broker-dealers to provide liquidity.[264] However, non-FINRA member firms may already bear a portion, but not all, of these costs as FINRA member firms may pass through their fees to non-FINRA member counterparties. To the extent that non-FINRA member firms do have lower cost for providing liquidity than FINRA member firms, the proposed amendments may eliminate such an advantage, and lead to a reduction in liquidity provided by current non-FINRA member firms.

The existing differential regulatory cost burdens of FINRA member firms and non-FINRA member firms may have consequences with respect to market quality both for exchange-based and off-exchange trading. For example, because non-FINRA member firms, all else equal, currently face lower variable costs of trading compared to member firms, non-FINRA member firms may be able to provide liquidity at a lower cost than member firms. It may also reduce direct execution costs (such as quoted and effective spreads) for both exchange and off-exchange trades, the latter of which are normally derivatively priced with reference to prevailing exchange quotes. The differential regulatory burden, however, may also reduce depth at best prices because a member firm may not be able to trade profitably at a price established by a non-FINRA member firm that faces lower regulatory costs. Lower liquidity at best exchange prices implies greater price effect of trades, which may increase trading costs, particularly for large orders. For example, if the best price on an exchange is associated with 100 shares of depth, a 200 share order will exhaust depth at the best price and the second 100 share lot may execute at an inferior price.[265] If depth at the best price tends to be larger, it is less likely that an order will exceed the depth available at the best price. The change in the best price associated with an execution that exhausts the depth available at the best price is the price effect of the trade upon the exchange.

3. Competitive Effects on Off-Exchange Market Regulation

Currently, FINRA is the only Association.[266] It is possible, however, for new Associations to enter the regulatory oversight market and

[260] These firms could unwind positions on exchanges of which they are a member, but the cost to do so may be higher than if all liquidity, including off-exchange liquidity, were available.

[261] It is possible non-FINRA member firms that choose to join an Association may avoid some additional costs by registering as market makers on additional venues, mitigating these charges. Furthermore, they may see a reduction in fees that were formerly paid to their DEA if FINRA assumes that role.

[262] Exchange membership also imposes costs on broker-dealers. Some non-FINRA member firms are members of many exchanges, but not FINRA, while some FINRA-member firms are members of many exchanges as well as FINRA. To the extent that a broker-dealer can avoid FINRA membership, its fee burden may be lower than a broker-dealer that cannot or does not avoid FINRA membership. The Commission preliminarily believes that many non-FINRA member firms would retain their exchange membership if the proposed amendments are adopted in order to maintain the benefits of being a member of the exchange. Therefore, the Commission only considers the additional cost to the firms that are specific to joining FINRA. The Exchange SRO fees are not considered as they are not expected to change. However, a firm may decide to drop their exchange membership on exchanges where they no longer wish to trade after joining FINRA, because maintaining exchange memberships is costly and firms are unlikely to maintain membership in exchanges where they do not plan to have activity. *See infra* section VI.C.2, for more information on the fees associated with FINRA membership.

[263] *See* section VI.C.2.f, *infra.*

[264] *See* section VI.B.1, *supra* for discussion of competitive effects and investor costs.

[265] This assumes no hidden depth at the best price. If non-displayed depth is present at the best price, the remaining 100 shares will be filled at the best price if at least 100 shares of hidden depth exist at the best price.

[266] *See supra* note 9 and accompanying text.

compete with FINRA. The amendments to Rule 15b9–1 may create incentives for a new Association (or Associations) to form. The large non-FINRA member firms have commonalities in business models; for example, they typically do not carry customer accounts. They may consider joining a new Association together, which would allow the member of the new Association to be subject to rules and regulations that better fit their business practices. This may allow the new Association to more efficiently provide oversight for current non-FINRA member firms. For example, because these firms collectively conduct a significant portion of off-exchange volume, the creation of a new Association tailored to these firms may be economically viable.

To be registered as a new Association, in addition to requirements that parallel the requirements to be a national securities exchange, a new Association must ''[b]y reason of the number and geographical distribution of its members and the scope of their transactions'' be able to carry out the purposes of Section 15A.[267] Any new Association would have to be approved by the Commission. Additionally, a new Association must permit any registered broker or dealer that meets a new Association's qualification standards to become a member.[268] It also must have rules regarding the form and content of quotations relating to securities sold otherwise than on a national securities exchange that are designed to produce fair and informative quotations, to prevent fictitious or misleading quotations, and to promote orderly procedures for collecting, distributing, and publishing quotations.[269] A new Association must also be so organized and have the capacity to enforce compliance by its members and persons associated with its members with, among other things, its own rules and the Exchange Act and the rules and regulations thereunder.[270]

The ability to form an Association is characterized by barriers to entry. The proposed amendments include a one-year implementation period, which may provide a significant time constraint to form a new Association. A new Association would likely incur significant fixed costs to create the infrastructure needed to perform the surveillance and oversight requirements imposed on Associations by statute and regulation. It may also incur substantial costs, including personnel, training, travel, and other costs to provide for effective surveillance and supervision of the off-exchange equity and U.S. Treasury securities markets. Indeed, the only existing Association, FINRA, has resources that enable it to surveil and supervise the off-exchange market.[271] Additionally, while some costs may be lower because CAT already collects information and makes it available to query; a new Association would still have to build its own infrastructure, surveillance logics, and analytical tools, which may create a substantial cost for a new Association.[272]

The amendments may increase barriers to entry and thus affect the potential for competition among regulators of off-exchange markets. Currently, the primary barrier to entry is the high fixed cost involved in forming and operating an Association. As proposed, the amendments bring nearly all off-exchange trading under the jurisdiction of an Association, including the trading of firms that currently are not members of an Association (non-FINRA member firms). If these firms join the only existing Association, FINRA, any newly-formed Association may have increased difficulty attracting the members needed to support the high fixed costs associated with forming an Association because every broker or dealer that participates in the off-exchange market would already be a FINRA member. This increased difficulty results because many firms may be reluctant to change Associations, either because of the costs to change compliance infrastructures or uncertainty in the regulatory environment of the new Association. Thus, if the amendments result in more firms becoming members of the FINRA, a new Association could face increased difficulties attracting members in the future. If the new Association is introduced after implementation of the rule, these stated effects would become more likely as the current non-FINRA member firms would have already joined FINRA.

The proposed amendments may create incentives to start a competing Association. The amendments, as proposed, could cause a number of firms with similar business models and substantial off-exchange volume to concurrently contemplate Association membership. This may provide the incentive to create a new Association and tailor it to the specific business models of these firms. If a competing Association limited the scope of its members or operations, it might not have to duplicate all of the surveillance and supervision functions required to be provided by an Association that does not have those limits. This may lower the costs of forming an Association and alter the barriers to entry.[273]

When the Commission previously considered these amendments, some commenters expressed their concern about a concentration of regulatory oversight.[274] One commenter stated that, although subjecting all brokers and dealers to FINRA oversight could create standardized rules, which would simplify compliance and allow for better regulatory oversight and would eliminate the rationale for many exchange specific requirements, it is necessary to weigh such benefits against potential negatives associated with having a single regulator.[275] A second commenter worried about an ''imprudent concentration of regulatory oversight responsibility with one self-regulatory organization.'' [276] This commenter is concerned that the rule may achieve efficient oversight but would ''do so at the certain cost of regulatory resiliency and innovation.'' This commenter is also concerned that the rule could lead to serious single point of failure concerns and discourage innovation in regulatory surveillance and oversight practices.[277] One commenter believes that the proposal raises ''[m]onopoly and [a]nticompetitive considerations.'' [278]

The existence of multiple Associations might provide benefits to the market as a whole. If a new Association could provide high quality services to members with a lower fee structure, all Associations would have

[267] *See* 15 U.S.C. 78*o*-3.

[268] *See* 15 U.S.C. 78*o*-3(b)(3). Section 15A of the Exchange Act specifically states that an Association shall not be registered as a national securities association unless the Commission determines, among other things, that ''the rules of the association provide that any registered broker or dealer may become a member of such association and any person may become associated with a member thereof.''

[269] *See* 15 U.S.C. 78*o*-3(b)(11).

[270] *See* 15 U.S.C. 78*o*-3(b)(2).

[271] *See supra* note 9 and accompanying text.

[272] *See* Exchange Act Release No. 79318 (Nov. 15, 2016), 81 FR 84696, 84836–39 (Nov. 23, 2016) (''CAT NMS Approval Order''), for a discussion on the benefits provided by CAT with regard to surveillance by SROs.

[273] Some limitations on Association membership or operations would require exemptive relief for the Association to register with the Commission.

[274] *See* HRT Letter at 9–11, CHX Letter at 1–2, and Hold Brothers Capital Letter at 3.

[275] *See* HRT Letter at 9–10. HRT further believes that it is appropriate to consider the potential negatives of concentrating power in a single regulator while also considering the potential positives associated with better standardization. *Id.* at 11.

[276] *See* CHX Letter at 1.

[277] *Id.* at 2. The commenter believes that effective regulation of cross-market activity requires multiple reviews of the same data from the unique vantage points of the respective SROs as is currently done with cooperation among the SROs and statutorily delegated regulatory authority.

[278] *See* Hold Brothers Capital Letter at 3.

incentives to reduce fees to attract members. This could result in cost savings to brokers and dealers. Second, a new Association could innovate to develop different surveillance and supervision methods that could be more efficient than FINRA's methods.

Competition among Associations could also entail substantial costs. If the market for Associations is characterized by economies of scale, aggregate costs for the same level of regulation would be higher in a market with two Associations than in a market with a single Association. These additional costs would ultimately be borne by the broker and dealer members of either Association, and could be passed on to investors. Second, Associations might compete on the basis of providing ''light touch'' regulation, in essence surveilling less and providing less supervision. As a result, the quality of market supervision might decrease, although the Commission does itself oversee self-regulatory organizations, such as Associations, and accordingly, would not permit a ''race to the bottom.'' [279] Furthermore, some of the benefits of the proposed amendments would be diminished if current non-FINRA member firms created a new Association as opposed to joining FINRA. For example, the new Association would not have the experience or expertise of FINRA in overseeing off-exchange market activity. Additionally, the members of a new Association would not be required to report their U.S. Treasury securities market trading activity to TRACE if they are not FINRA members.

*C. Consideration of Costs and Benefits*

This section discusses costs and benefits of the amendments. While the Commission has attempted, where possible, to provide estimated quantifiable ranges, both costs and benefits are difficult to quantify for this proposal for a number of reasons.

The overall benefits of the amendments relate to more stable and uniform surveillance of off-exchange activity by the direct, membership-based Association oversight to oversee such activity. As such, the benefits the Commission anticipates from the amendments are largely qualitative and by their nature difficult to measure quantitatively.

The amendments would induce initial, ongoing and indirect costs which would be similarly difficult to measure for a variety of reasons. First, market participants are heterogeneous in their type, existing exchange memberships, and activity level in the off-exchange market. Consequently, compliance costs would vary across firms in a number of dimensions. Second, estimating costs is complicated by the fact that non-FINRA member firms can comply with the proposal in a number of ways, and presumably each would choose to seek compliance in the manner that minimizes the sum of its direct costs (related to joining and maintaining memberships in additional SROs) and indirect costs (which include forgone opportunities to trade profitably and costs associated with revising business strategies). Furthermore, some firms are likely to remain exempt but the Commission lacks data to identify those firms with certainty.[280] At the other end of the spectrum, the minority of non-FINRA member firms that are large and contribute significantly to both exchange and off-exchange trading are unlikely to remain exempt.[281] For the 65 non-FINRA member firms, the Commission believes that most could lose their exempt status, but cannot estimate how those firms would seek to comply with the amendments.[282]

1. Benefits

As discussed above,[283] some of the firms relying on the Rule 15b9–1 exemption are significant participants in both on and off-exchange markets.[284] For example, in September of 2021, $789 billion in listed equities was traded off-exchange by non-FINRA member firms, and $592.3 billion in listed equities was traded on an exchange that the firm did not belong to.[285] Thus, a substantial amount of off-exchange volume is conducted outside of the regulatory jurisdiction of FINRA, which under the Exchange Act has primary responsibility for overseeing off-exchange activity. Although FINRA has the ability to surveil 100% of cross-market and off-exchange equity trading activity, it does not have enforcement jurisdiction for firms that are not FINRA members, unless enforcement responsibility is covered under an RSA. Association membership would supplement the oversight of the exchanges, to the extent a firm remained an exchange member, and provide consistent and ongoing application of rules, which could vary between exchanges. Regarding off-exchange trading, under the current regulatory structure using RSAs, FINRA applies the rules of the different exchanges and the exchanges' interpretations of those rules to such trading. This can result in different interpretations and FINRA registration would promote consistent interpretations and efficiencies in enforcement and regulation with respect to this growing part of the market. As discussed above,[286] the Commission believes the inclusion of more non-FINRA member firms in an Association would improve such Association's ability to supervise cross-exchange trading activity, particularly in U.S. Treasury securities markets. This would enhance FINRA's ability and—through the information FINRA shares with the Commission—the Commission's ability to effectively oversee regulation of trading on equity, fixed income, and option markets.

The Commission believes that the amendments to Rule 15b9–1 would improve supervision of non-FINRA member firms. FINRA, currently the only Association, has substantial experience and expertise from overseeing a large number of brokers and dealers that trade off-exchange or across exchanges. This makes FINRA's potential regulation of non-FINRA member firms with off-exchange or cross-market trading activity particularly efficient.

In addition, the amendments, as proposed, would enhance the supervision and enforcement for equities and options beyond the benefits from the CAT NMS Plan.[287] While CAT improves data accessibility for all SROs, it does not address FINRA's lack of jurisdiction over non-FINRA member firms participating in the off-exchange markets. Several commenters on the 2015 Proposal believed that reporting of non-FINRA member identifying information and activity pursuant to the CAT NMS Plan would eliminate the need for firms to join FINRA and would provide FINRA a near complete picture

[279] *See* Section 19(g) and Section 19(h) of the Exchange Act.

[280] Non-FINRA member firms that provide liquidity on multiple exchanges and trade heavily off-exchange are unlikely to be small in terms of net capital, and are not low trading volume firms by definition. However, as discussed in *supra* Section VI.A.1, many non-FINRA member firms are small in terms of net capital and may be members of a single exchange. Such firms are more likely to have limited exposure to off-exchange markets. Such firms would either be exempt from the rule by virtue of having no off-exchange trading or no trading on exchanges of which they are not members, or be able to rely on the stock-option order exemption to continue their limited off-exchange trading related to their exchange-based brokerage activities.

[281] The diversity of non-FINRA member firms is discussed in *supra* Section VI.A.1.

[282] *See supra* Section VI.B.1., which discusses how firms may change their business models in response to the rule.

[283] *See supra* Section I.

[284] *See supra* Section VI.A.1.

[285] *See supra* Table 1.

[286] *See supra* Section I.

[287] *See* CAT NMS Approval Order, *supra* note 272.

of off-exchange trading activity.[288] However, another commenter noted that even with non-FINRA member firm information, ''enforcement activities would remain the responsibility of the individual exchanges where broker-dealers are members'' even though FINRA would be best positioned to regulate off-exchange activity.[289] The Commission agrees that, although FINRA now has additional information with respect to non-FINRA member firm activity, it still lacks jurisdiction over non-FINRA member firms, and the proposed amendments would provide such jurisdiction.[290]

The benefits of the proposed amendments would be pronounced in the U.S. Treasury securities markets. A significant amount of volume in U.S. Treasury securities markets comes from broker-dealers that may be newly required to become FINRA members as a result of the proposed amendments.[291] If these broker-dealers become FINRA members, they would be required to comply with FINRA rules, including TRACE reporting requirements. This could have a positive impact on market quality by increasing coverage of data reported to TRACE as well as providing additional market oversight. Non-FINRA member firms do not report to TRACE, and they are only specifically identified by MPID in TRACE when their U.S. Treasury securities trades occur on a covered ATS; they are not identified by MPID for other trades of U.S. Treasury securities that do not occur on covered ATSs, such as direct dealer-to-dealer transactions. Thus, the proposed amendments would improve the quality and coverage of TRACE data and increase regulatory transparency into the U.S. Treasury securities markets.[292] The extent of the benefits of requiring non-FINRA members to report these transactions may be limited because the Commission believes that the majority of U.S. Treasury securities transactions are already reported to TRACE.[293] However, the Commission is unable to estimate the extent of U.S. Treasury securities trading activity that is not reported to TRACE.

The Commission believes that the proposed amendments could have similar or additional benefits for other TRACE reported securities, should current non-FINRA member firms also trade in such securities. However, the Commission lacks the information necessary to discern the degree of any such benefits because, as noted above, the Commission does not have any data or other information available, unlike with U.S. Treasury securities, to determine how many non-FINRA member firms, if any, actively trade in these securities or to predict how many additional trades would be reported under the proposal.[294] In addition to the potential market oversight benefits that would be similar to U.S. Treasury securities, the potential transparency improvements of TRACE reporting for other TRACE reportable securities go further than transparency improvement in U.S. Treasury securities, because the TRACE data for other TRACE reported securities is available to the public in real time through data vendors.[295] The additional transparency from more public TRACE reporting could result in improved price discovery, which would lead to lower transaction costs.[296]

While current members of an Association would not be directly affected by this rule, they would benefit by having a more level playing field in reporting trades in the U.S. Treasury securities markets. With more uniform regulatory requirements, firms may compete more equitably to supply liquidity both on exchanges and in the off-exchange market.

Although fewer firms will be able to rely on the proposed narrower exemptions, the proposed narrower exemptions would continue to provide benefits for non-FINRA members as well as other market participants. These exemptions would continue to provide cost savings for non-FINRA members as they would continue to not be required to join FINRA and thus avoid the costs of doing so. Additionally, the routing exemption would facilitate regulatory compliance designed to improve market quality.[297] The Commission also believes that the stock-option order exemption would facilitate liquidity in both stock and options markets, which could improve market quality.[298]

2. Costs

The amendments, by narrowing the existing exemption, would result in brokers and dealers that no longer qualify for the exemption having to comply with Section 15(b)(8) by either limiting their trading to exchanges of which they are members, joining an Association or abiding by one of the stated exemptions. Under the amendments, therefore, non-FINRA member firms that choose to continue any off-member-exchange activity will be faced with choices that would involve corresponding costs. For example, non-FINRA member firms may incur costs related to membership in an Association or costs necessitated by additional exchange memberships. Additionally, some non-FINRA member firms may incur the costs of losing the benefits of trading in the off-member-exchange market if they decide not to join an Association. There could also be indirect costs associated with the proposed amendments, depending on if a non-FINRA member chooses to join an Association or not.

Most of the direct costs incurred in joining an Association and maintaining membership therein are dependent on firm characteristics and activity level. Furthermore, the Commission believes that some non-FINRA member firms may comply by ceasing their off-member-exchange trading activity, avoiding many of these costs but forgoing the opportunity to trade profitably in some venues. If all 12 of the non-FINRA member firms that have significant off-member-exchange trading activities in equities were to join FINRA, the median aggregate cost of the amendment for these firms would be about $95,000 in implementation costs and median ongoing aggregate annual costs of about $2.7 million.[299] The

[288] *See* HRT Letter at 3, CTC Letter at 3–4, and FIA 2 Letter at 3.

[289] *See* FINRA Letter at 4.

[290] *See supra* section II.B.

[291] The Commission estimates that four such firms accounted for $7 trillion in U.S. Treasury securities volume executed on covered ATSs in 2021 that was reported to TRACE, which was more than 2% of the total U.S. Treasury securities volume traded in 2021 that was reported to TRACE, and that three such firms' U.S. Treasury securities volume executed on covered ATSs in April 2022 that was reported to TRACE accounted for approximately 2.5% of total U.S. Treasury securities volume in April 2022 that was reported to TRACE. *See supra* Section II.B.

[292] One commenter stated that all off-exchange trades are already being reported ''because all off-exchange trading needs to go through a FINRA member with its own reporting obligations.'' *See* FIA 1 Letter at 3. *See also supra* note 70.

[293] *See id.*

[294] The information used to get a sense of the magnitude of unreported transactions in U.S. Treasury securities is not available for other fixed income securities. *See supra* Section VI.A.1.

[295] *See supra* note 218, for information on the difference between the dissemination of TRACE for U.S. Treasury securities and TRACE for other TRACE eligible securities.

[296] *See* Hendrik Bessembinder, Chester Spatt & Kumar Venkataraman, *A Survey of the Microstructure of Fixed-Income Markets,* 55 J. Fin. & Quantitative Anal. 1 (2020). *See also infra* Section VI.C.2.f. for a related discussion of potential costs which could apply to other FINRA reportable securities.

[297] *See supra* Section III.B.1 for more information on the purpose of the routing exemption.

[298] *See supra* Section III.B.2 for more information on the stock-options order exemption.

[299] *See* Table 3 and Table 4, *infra,* for a breakdown of these costs. The 2015 Proposing Release, *supra* note 6, estimated these costs to be much higher as the estimates included costs for reporting transactions for NMS stocks. These transactions are now reported to CAT and are therefore not included in our estimates here.

aggregate costs for the subset of 12 represent the majority of the aggregate costs. The Commission believes that smaller non-FINRA member firms as well as new entrants would experience much lower costs. In particular, the initial costs for such firms would be close to the lower range discussed below, because these cost are largely dependent on the size and complexity of the firms. Additionally, because smaller firms and new entrants would have lower trading activity, the ongoing costs would also be significantly lower as ongoing costs are highly impacted by the trading activity.

a. Costs of Joining an Association [300]

Based on discussions with FINRA,[301] and industry participants, the direct compliance costs on non-FINRA member firms of joining FINRA are composed of FINRA membership application fees and any legal or consulting costs necessary for effectively completing the application to become a member of FINRA (*e.g.,* ensuring compliance with FINRA rules including drafting policies and procedures as may be required).

The fees associated with a FINRA membership application can vary. As an initial matter, the application fee to join FINRA is tier-based according to the number of registered persons associated with the applicant. This one-time application fee ranges from $7,500 to $55,000.[302] The initial membership fee for FINRA is $7,500 for firms with ten or fewer representatives registered with FINRA, $12,500 for firms with 11 to 100 representatives registered with FINRA, and $20,000 for firms with 101 to 150 representatives registered with FINRA.[303] Based on its knowledge of the size and business models of non-FINRA member firms, the Commission believes that the median application fee for the 12 largest firms would be $12,500 and that most non-FINRA member firms would not incur FINRA application fees exceeding $20,000.[304]

In addition to the application fees and data reporting costs, the Commission has taken into account the cost of legal and other advising necessary for effectively completing the application to be a member of FINRA. Some firms may choose to perform this legal work internally while others may use outside counsel for the initial membership application. In making this choice, non-FINRA member firms would likely take into account factors, such as the size and resources of the firm, the complexity of the firm's business model, and whether the firm previously used outside counsel to register with any exchanges. Based on conversations with industry participants that assist with FINRA membership, for non-FINRA member firms that choose to employ outside counsel to assist with their FINRA membership application, the cost of such counsel ranges from approximately $40,000 to $125,000, with a midpoint of $82,500. Factors affecting the specific costs of a particular firm include the number of associated persons, the level of complexity or uniqueness of the firm's business plan, and whether the firm has previously completed exchange membership applications with similar requirements.

TABLE 3—MEDIAN FIRM IMPLEMENTATION COSTS [1]

| Cost | Median |
|---|---|
| Application to join: | |
| FINRA | $12,500 |
| Legal consulting | 82,500 |
| Total | 95,000 |

[1] Medians are used where possible. Cost estimates are for the 12 largest firms. Cost estimates are reported as ranges for legal consulting and compliance work; for these estimates, the midpoint is used.

b. Costs of Maintaining an Association Membership

With respect to ongoing costs, three components of such costs are any ongoing fees associated with FINRA membership, costs of legal work relating to FINRA membership, and costs associated with additional compliance activities. The ongoing membership-related fees associated with FINRA membership include the annual GIA; and the TAF and Section 3 fees, among others.[305]

With certain assumptions, the Commission attempted to estimate direct compliance costs that a non-FINRA member firm is likely to face to comply with the amendments. The estimate applies to the 12 non-FINRA member firms that have significant off-member-exchange trading activities; smaller firms should face lower costs compared to these 12 firms because they have less revenue and trading volume that would be subject to GIA, TAF and Section 3 fees. Though non-FINRA member firms may already indirectly bear some of these costs as they may be passed through by FINRA member counterparties. Ongoing annual cost estimates (one time and annual) are broken down in Table 2.

The annual GIA generally requires members to pay a percentage of the member firm's total annual revenue based on a graduated scale.[306] The magnitude of the annual GIA is based on the total annual revenue, excluding commodities income, reported by the member firm on its FOCUS Form Part II or IIA.[307] Based on FOCUS Form data from 12 non-FINRA member firms in 2022, the Commission has determined that the average annual total revenue of non-FINRA member firms, excluding commodities income, is approximately $1.3 billion, with a median of $906 million.[308] For the 12 large firms, FINRA's graduated GIA scale results in a median GIA of $459,849.51.[309]

[300] The Commission recognizes that non-FINRA member firms would incur compliance costs on an initial and ongoing basis to comply with the proposed amendments. These costs include costs for training and hiring new employees, as well as additional costs for exams and licensing required by FINRA. The Commission does not aggregate these costs across all non-FINRA member firms because the Commission does not have necessary information about the majority of the non-FINRA member firms and expects that costs would vary widely across firms. Where possible, however, the Commission has provided estimates based on a subset of large firms on which the Commission has sufficient information. The Commission expects that smaller firms likely will face lower costs.

[301] *See* FINRA Letter at 5–7.

[302] *See* FINRA By-Laws, Schedule A, Section 4.

[303] *Id.*

[304] Based on 2022 FOCUS data, no non-FINRA member firm has more than 150 registered representatives.

[305] There are additional fees associated with maintaining a FINRA membership. There are also additional continuing education and testing requirements, which will impose costs upon firms joining FINRA. Additionally, there are *de minimis* fees (branch registration fee and system processing fee, among others). *See* FINRA By-Laws, Schedule A. The Commission also believes that non-FINRA member firms would not need to register additional associated persons because the exchange SRO rules are already comprehensive in this regard. *See infra* Section VI.C.2.d.

[306] *See* FINRA By-Laws, Schedule A. For example, FINRA imposes a GIA as follows: (1) $1,200 on a member firm's annual gross revenue up to $1 million; (2) a charge of 0.1215% on a member firm's annual gross revenue between $1 million and $25 million; (3) a charge of 0.2599% on a member firm's annual gross revenue between $25 million and $50 million; and so on as provided in Schedule A. When a firm's annual gross revenue exceeds $25 million, the maximum of current year's revenue and average of the last three years' revenue is used as the basis for the income assessment.

[307] *See* FINRA By-Laws, Schedule A, Section 2. *See also* FOCUS Report Form X–17A–5, Part II and IIA.

[308] Based on 2022 FOCUS data.

[309] ($1,200 for the first $1 million of revenue) + (0.1346% × annual revenue greater than $1 million up to $25 million) + (0.2880% × annual revenue greater than $25 million up to $50 million) + (0.0574% of annual revenue greater than $50 million up top $100 million) + (0.0404% of annual revenue greater than $100 million to $5 billion) + (0.0440% of annual revenue greater than $5 billion up to $25 billion) + (0.0948% of annual revenue greater than $25 billion). Although the average annual total revenue exceeds the median annual total revenue, there are a number of firms that have

The magnitude of the TAF depends on the transaction volume of a FINRA member that is covered by the TAF as described in the FINRA By-Laws.[310] To the extent FINRA changes the structure of the TAF to take into account the business models of non-FINRA member firms that may join FINRA as a result of the proposed amendments, these costs may change.[311] The Commission has identified 12 non-FINRA member firms that have significant off-member-exchange trading activity in September of 2021. The Commission estimates that trading activity fees for off-member-exchange equity trading incurred by these 12 large non-FINRA member firms due to their off-member-exchange activity would have an average incurred TAF of around $273,677.87 with a median TAF of $132,744.50.[312] However, this cost is likely to be underestimated, as the estimate only accounts for off-exchange equity activity, and the magnitude of the underestimate may be significant.[313] The Commission believes that the TAF for non-FINRA member firms not among the 12 identified would be far lower because the median non-FINRA member firm has far lower trading volume than the typical firm of the 12 identified in the data.

Some off-exchange trading that non-FINRA member firms engage in currently may no longer be profitable when TAF is incurred. Consequently, non-FINRA member firms may reduce their trading both on exchanges and off-exchange after joining an Association.[314]

In May of 2015, FINRA issued a Regulatory Notice proposing to amend the TAF such that it would not apply to transactions by a proprietary trading firm effected on exchanges of which the firm is a member, to coincide with originally proposed changes to 15b9–1.[315] To the extent FINRA contemplates proposing similar changes to the TAF, if approved, this could lower the cost for non-FINRA member firms.[316] FINRA's previously proposed TAF amendments would exempt proprietary trading firms when they trade securities on exchanges of which they are a member, which several commenters supported.[317]

In addition to the TAF, non-FINRA member firms that choose to join FINRA may incur additional Section 3 fees. Using data on off-exchange trading during September 2021, the Commission estimated that Section 3 fees incurred by the 12 large non-FINRA member firms due to their off-exchange trading would have an average incurred Section 3 fee of $4,541,719.31 annually, with a median incurred Section 3 fee of $2,150,069.99.[318] Some of these fees may already be paid by non-FINRA member firms that engage the services of a member firm clearing broker. However, FINRA lacks the authority to assess Section 3 fees against non-FINRA member firms, in which case FINRA may assess the fee to the member firm counterparty to the transaction. In these cases, the FINRA-member may pass-through a portion of the fee to the non-FINRA member counterparty. While these fees would represent a cost to non-FINRA member firms, the cost would be largely offset to the industry as a whole by a reduction of Section 3 fees incurred by member firms (or clearing brokers acting on behalf of a member firm) when they buy from a self-clearing, non-FINRA member firm.[319]

Ongoing compliance costs would depend on the business circumstances of each firm and the types of issues that could arise. As in the case of the initial membership, some non-FINRA member firms may choose to conduct ongoing compliance activities in-house while others may seek to outsource this work.[320] Based on discussions with industry participants, the Commission estimated that the ongoing compliance cost for firms that outsource this work would range from $24,000 to $96,000 per year, with a median of $60,000.[321] In the case of some non-FINRA member firms, *i.e.,* those that are affiliates of FINRA members, this cost is likely to be lower as they may be able to leverage compliance work already being performed.

FINRA members may also be required to pay the median Personnel Assessment.[322] The annual Personnel Assessment fee ranges from $130 to $150 per employee and applies to principals or representatives in the FINRA member's organization. Using FOCUS data the Commission estimates that the average non-FINRA member firm would incur a Personnel Assessment fee of no more than $1,960, and the median non-FINRA member

low GIA, which causes the midpoint of GIA to exceed the average GIA. Non-FINRA member firms vary in size. GIA for the 12 largest firms used in these calculations, is anticipated to be far larger than for the 65 remaining non-FINRA member firms. *See* FINRA By-Laws, Schedule A, Section 1(c).

[310] *See* FINRA By-Laws, Schedule A, Section 1(b).

[311] FINRA proposed amendments to the TAF in May of 2015. *See supra* note 241.

[312] Estimated TAF includes only the off-exchange equity portion of the TAF and does not include any TAF related to a firm's exchange-based trading activity. If a firm's activity on an exchange is related to normal market making operations, the activity does not incur the TAF. The Commission is unable to estimate the proportion of these firms' exchange trading that would incur the TAF because the Commission does not have information on what proportion of non-FINRA member firm exchange activity would qualify for exemption from the TAF under FINRA By-Laws. Because other elements of the TAF are not included in this calculation, it underestimates the actual TAF that firms would incur if they joined FINRA. The magnitude of the underestimation may be significant, but firms that join FINRA may be able to reduce their TAF cost by registering as market makers upon additional exchanges. (The TAF is not assessed for certain trades related to registered market-making.) *See* FINRA By Laws, Schedule A, Section (1)(b)(2)(F). Estimates of the TAF are based on the off-exchange sell volume reported to CAT for each of the 12 large non-FINRA member firms. The estimated TAF is equal to estimated off-exchange sell volume x $0.00013. The $0 minimum is associated with a firm that has almost no off-exchange volume.

[313] FINRA members are required to pay the TAF for on and off-exchange trading activity across multiple asset classes. However, there are exemptions for certain trading activity and the Commission is unable to identify all trades that are subject to such exemptions. *See https://www.finra.org/rules-guidance/rulebooks/corporate-organization/section-1-member-regulatory-fees* for an explanation of the TAF and the relevant exceptions.

[314] *See supra* section VI.B.1 for more information on how firms may change their trading practices in response to the rule.

[315] *See supra* note 153.

[316] In the 2015 Proposing Release, *supra* note 6, the Commission solicited comment on the effect of the proposed TAF amendments, including the effect should the TAF be assessed to non-FINRA member firms that choose to become FINRA members. With regard to the TAF, one Commenter stated that ''it is impossible. . . to estimate the impact of this potentially significant cost.'' *See* CTC Letter at 5. Another commenter shared similar thoughts. *See* FIA 1 Letter at 2. However, of the commenters that discussed this issue, most were in support of the TAF amendments. *See* FIA 2 Letter at 2, CTC Letter at 5, IEX Letter at 3, and HRT Letter at 11. For example, one commenter believes that ''[c]hanges to TAF fees alone could potentially reduce the total costs of the Proposal to some firms by 90% or more.'' *See* FIA 2 Letter at 2.

[317] *See* IEX Letter at 3, PEAK6 Letter at 3, and HRT Letter at 5.

[318] Section 3 fees are estimated using non-FINRA member firm off-exchange sell dollar volume calculated in CAT. The Section 3 fee obligation is calculated as: Non-FINRA member firm Sell Dollar Volume x $22.90/$1,000,000. The $22.90/$1,000,000 is the FINRA fee rate for Fiscal Year 2022. *See* FINRA By-Laws of the Corporation, Schedule A to the By-Laws of the Corporation, Section 3—Regulatory Transaction Fee. *See also* Exchange Act Release No. 94644 (April 8, 2022), 87 FR 21931 (April 13, 2022) and press release, Commission, Fee Rate Advisory #1 for Fiscal Year 2022 (April 8, 2022), *available at https://www.sec.gov/news/press-release/2022-60.*

[319] Currently, when the sell side of an off-exchange transaction is a non-FINRA member firm, FINRA may assess the Section 3 fees on the buy side counterparty. *See* the discussion of Section 3 fees in Section VI.A.2, *supra,* for more information.

[320] Ongoing compliance activities may include core accounting functions, updating policies and procedures, and updating forms filed with regulators.

[321] For firms that choose to do this work in-house, the Commission estimates that the costs of ongoing compliance may be less than $96,000. This figure assumes non-FINRA member firms may have experience in ongoing compliance work with SROs through their exchange membership(s) and, therefore, only captures the incremental cost of compliance with Association rules.

[322] *See* FINRA By-Laws, Schedule A, Section 1(e).

firm would incur a Personnel Assessment fee of $0.[323] The Commission further estimates that the maximum Personnel Assessment fee incurred by one of these non-FINRA member firms would be $18,330.

The Commission estimates that the median ongoing cost for non-FINRA member firms would be $2,742,664. However, as discussed above, these costs could vary. The Section 3 fees which make up a large portion of these costs are likely to be overestimated for reasons stated above. Additionally, the TAF is likely to be underestimated.

TABLE 4—MEDIAN FIRM ONGOING ANNUAL COSTS [1]

| Cost | Median or average |
|---|---|
| Gross Income: | |
| Assessment | $459,849.51 |
| Trading Activity Fee | 132,744.50 |
| Personnel Assessment | 0 |
| Section 3 fee | 2,150,069.99 |
| Compliance work | 60,000 |
| Total | $2,742,664 |

[1] *See infra* note 312 and accompanying text. The TAF cost also represents a transfer from current non-FINRA member firms to current member firms. The TAF is calculated using off-exchange sell volume from CAT. The Section 3 fee estimate assumes that the firms currently pay no Section 3 fees. It is likely that firms that clear through a member firm are currently assessed these fees indirectly. Median Personnel Assessment Fees are estimated to be zero based on analysis using FOCUS data. *See supra* note 323.

In addition to the cost estimates discussed above, the Commission recognizes that both non-FINRA member firms and SROs would incur other direct and indirect costs because of the increased regulatory requirements of the amendments. Specifically, there would be compliance costs associated with regulation by FINRA.[324] Additional costs would include actions that are required to accommodate normal supervision and examination by an Association. To the extent that they do not already do so, firms would face additional costs related to coming into compliance with Association rules. The Commission was not able to estimate these costs, although the costs would vary among non-FINRA member firms.

Two commenters on the 2015 Proposal submitted estimates for the cost of becoming FINRA members.[325] In addition, many commenters stated that FINRA fees would be substantial and constitute a considerable sum,[326] believing that FINRA fees would be unduly burdensome and outweigh perceived benefits.[327] Several commenters believed in particular that FINRA membership would be costly to proprietary trading firms with no customer business.[328] One commenter noted generally that FINRA should review its fees to ensure that those fees are proportionate to the actual costs of regulation.[329] By contrast, one commenter noted that additional regulatory costs associated with FINRA membership would be ''manageable'' compared to the cost of the TAF.[330] As stated above, to the extent FINRA amends the TAF consistent with what was previously proposed, the ongoing costs could be lower than these estimates.

One commenter was concerned that FINRA's membership fees would only rise with no competitive forces to restrain the increase of such fees.[331] Furthermore, another commenter stated that FINRA membership fees are substantially higher than fees charged by some of the exchanges for DEA services.[332] Several commenters also raised the concern that FINRA may get paid twice for its regulatory oversight—once, directly from the FINRA membership, and again, from the SROs that have outsourced regulatory oversight to FINRA through RSA agreements.[333] However, FINRA fees must be filed with the Commission and such fees must be consistent with the Exchange Act.[334]

c. Costs of TRACE Reporting for Non-FINRA Member Firms That Trade U.S. Treasury Securities

Additionally, to the extent that a firm trades fixed income securities, they would also have implementation and ongoing costs associated with TRACE reporting. The Commission believes that four non-FINRA member firms have significant trading activities in U.S. Treasury securities markets. The Commission estimates that these firms will each have an initial cost of $2,025, associated with setting up systems for TRACE reporting. This cost includes the Direct Circuit Connectivity Fee for TRACE reporting through Nasdaq, in which Nasdaq facilitates the reporting to TRACE. FINRA does not charge a Transaction Reporting Fee for trading activity in U.S. Treasury securities markets.[335] The Commission estimates an aggregate ongoing cost for each firm of $125,100. There are three ways for firms to connect into TRACE. First, firms may directly report with the FIX protocol through Nasdaq, who is the vendor. Second, firms may use a third party service bureau with FIX protocols to submit to TRACE. The costs of reporting via FIX protocols are outlined in Tables 3 and 4. The Commission does not have estimates for the cost of third party reporting to TRACE. Finally, firms with lower reporting requirements have the option of reporting using the Secure Web Interface known as FINRA TRAQS for a fee of $20 per month, which would allow these firms to avoid port fees and connection fees to Nasdaq's FIX reporting system. Additionally, costs for these firms could be significantly lower for firms with low volume, as the reporting cost is based on the volume. To the extent that non-FINRA member firms trade in other TRACE reportable securities, such firms would also have higher reporting costs. If those firms trade U.S. Treasury securities, their implementation costs would be included in the Commission's estimates above and they would incur only the additional marginal costs caused by their volume in other TRACE-reportable securities. However, to the extent that some non-FINRA member firms trade in other TRACE reportable securities but not U.S. Treasury securities, those firms would each incur implementation costs as described above. The Commission

[323] Based on 2022 FOCUS data, the number of registered representatives of non-FINRA member firms that connect directly to ATSs ranges from 0–163, with an average of 29 and a median of 0.

[324] However, non-FINRA member firms that choose to join an Association may have FINRA assigned as their DEA. Such an assignment could eliminate separate DEA fees that the non-FINRA member firms may pay to their current DEA.

[325] *See* CTC Letter at 5 (Estimating initial costs of $3.5 million and ongoing annual costs of $1.5 million per year), and FIA 2 Letter at 5 (Estimating initial costs of between $200,000 and $250,000 and ongoing costs of $100,000 per year).

[326] *See* FIA 1 Letter at 1 (''FINRA Membership would be costly to most proprietary trading firms''); PEAK6 Letter at 2 (''FINRA registration process is overly costly and burdensome''); Hold Brothers Capital Letter at 2 (''[Costs of FINRA membership] would be unduly burdensome to smaller, less well funded Proprietary Traders''); Lakeshore Letter at 2, CTC Letter at 6, D&D Letter at 2, and PTR Letter at 2.

[327] *See* Peak6 Letter at 2, D&D and PTR Letters at 2, Hold Brothers Capital Letter at 2, Lakeshore Letter at 3, and FIA 1 Letter at 2.

[328] *See* FIA 1 Letter at 1, FIA 2 Letter at 2, and Hold Brothers Capital Letter at 2.

[329] *See* SIFMA Letter at 3.

[330] *See* HRT Letter at 5.

[331] *See* CTC Letter at 6.

[332] *See* HRT Letter at 5.

[333] *See* CTC Letter at 6, SIFMA Letter at 3, D&D Letter at 2, and Lakeshore Letter at 3.

[334] *See supra* note 154.

[335] TRACE charges a Transaction Reporting Fee for TRACE reported securities other than U.S. Treasury securities. The fee is as follows: $0.475/trade for trade size up to and including $200,000 par value; $0.000002375 times the par value of the transaction (*i.e.,* $0.002375/$1000) for trade size over $200,000 and up to and including $999,999.99 par value; $2.375/trade for trade size of $1,000,000 par value or more.

cannot estimate how many firms would be in this group of non-FINRA member firms that trade TRACE-reportable securities but not U.S. Treasury securities because the Commission can identify non-FINRA member counterparties in TRACE only for U.S. Treasury securities transactions that occur on covered ATSs, as discussed previously.[336]

TABLE—AVERAGE FIRM TRACE REPORTING IMPLEMENTATION COSTS

| Cost | Median or average [1] |
|---|---|
| FIX Port fee | $575 |
| Direct Circuit Connectivity Fee for TRACE reporting through Nasdaq | 1,500 |
| Total | 2,025 |

[1] Medians are used where possible. Direct Circuit Connection Fees can be found at *http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2*.

TABLE 6—AVERAGE FIRM TRACE REPORTING ONGOING ANNUAL COSTS

| Cost | Median or average [1] |
|---|---|
| Systems Fees | $4,800 |
| Data Fee | 90,000 |
| Nasdaq Connection Fee | 30,000 |
| Rule 7730 Service Fee | 300 |
| Total | 125,100 |

[1] The systems fee is calculated using Level II Full Service Web Browser Access fee for four datasets at $140 a month plus a subscription for four additional user IDs at $260 per month for a total of $400 per month multiplied by 12 months, for an annual systems fee of $4,800. Data Fees are calculated using $7,500 per month flat fee for the professional real time data display. Connectivity fee is calculated at $2,500 a month for an annual cost of $30,000. Fees can be found at *https://www.finra.org/rules-guidance/rulebooks/finra-rules/7730*. Nasdaq FIX connection fees can be found at *http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2*.

d. Costs of Joining Additional Exchanges Under the Rule as Amended

Non-FINRA member firms must be members of all exchanges upon which they transact business if they decide not to join an Association. With limited exceptions for some excluded activity, some non-FINRA member firms may choose to join additional exchanges to be excluded from the requirement to become a member of an Association. Alternatively, these firms may cease trading on exchanges of which they are not members.

Based on discussions with FINRA and industry participants, the Commission understands that completing a membership application with an additional exchange is generally less complicated and time consuming than completing a membership application with FINRA. Consequently, the Commission believes that the compliance burden on non-FINRA member firms for joining an additional exchange is likely to be significantly less than that of joining FINRA as those non-FINRA member firms that choose to join an additional exchange are likely able to perform this work internally, given that they are already members of at least one exchange, and that such work should take less time than the time required to complete an application with FINRA. However, the aggregate cost of joining multiple exchanges would likely be more costly than the cost of joining FINRA.

In addition to the legal burden, non-FINRA member firms joining additional exchanges as a result of the proposed amendments would incur membership and related fees. To the extent that non-FINRA member firms choose to become members of additional exchanges, the fees associated with such memberships would vary depending on the type of access sought and the exchanges of which non-FINRA member firms choose to become members.

The Commission also believes that the exchange membership fees that would apply to non-FINRA member firms joining such exchanges would be those fees that apply to either introducing brokers or dealers or proprietary trading firms. This assumption is consistent with the fact that any brokers or dealers carrying customer accounts could not qualify for the current exemption of Rule 15b9–1. Thus, any exchange membership fees that apply to firms that provide clearing services or conduct a public business would not apply to non-FINRA member firms.

Furthermore, because all non-FINRA member firms are members of at least one exchange,[337] they would have already completed a Form U4, to register associated persons.[338] The Commission believes non-FINRA member firms would not need to register additional associated persons because the exchange SRO rules already require them to register associated persons. The Commission understands that all exchanges can access the Form U4 filings within the CRD which is maintained by FINRA.

To obtain estimates of the cost of joining additional exchanges, the Commission reviewed the membership-related fee structures of all twenty-four national securities exchanges. In assuming that the potential burden of joining additional exchanges would likely be less than that of joining FINRA, the Commission assumes that the costs imposed on non-FINRA member firms by the amendments would be membership fees, and not costs relating to trading, such as trading permit fees and connectivity fees. The Commission recognizes that membership alone in an exchange may not guarantee the ability to trade because many exchanges charge fees for trading rights, ports, various degrees of connectivity, and floor access and equipment, should those be desired. The fees associated with trading on an exchange are not the result of the amendments because, under the amendments, a non-FINRA member firm could continue to trade through another broker or dealer on an exchange as long as that non-FINRA member firm is a member of every exchange on which it trades or is a member of FINRA. In other words, the amendments themselves do not impose the cost of connectivity and related fees, but only the costs associated with membership on exchanges on which non-FINRA member firms could trade. To the extent, therefore, that non-FINRA member firms continue to trade through other brokers or dealers in a manner consistent with how they currently operate, the amendments impose only the costs associated with membership.

To arrive at estimates of the cost of joining additional exchanges, the Commission aggregated any fees associated with a firm's initial application to an exchange (''initial fee'') and separately aggregated the fees associated with any monthly or annual membership costs to obtain a separate annual cost (''annual fee''). Based on these aggregations, the Commission obtained a range for both the initial fee and the annual fee across exchanges. The initial fee is as low as $0 for some exchanges. Most exchanges have an

[336] *See supra* Section VI.A.1.

[337] For a broker or dealer to possibly be exempt from the requirement to be an Association member currently or under the amendments, the broker or dealer must be a member of at least one exchange.

[338] Form U4 is the Uniform Application for Securities Industry Registration or Transfer. Representatives of brokers and dealers, investment advisers, or issuers of securities use Form U4 to become registered in the appropriate jurisdictions and/or with SROs. All SROs currently use Form U4. *See, e.g.,* Cboe BYX Rule 2.5 Interpretations and Policies .01(c), and Nasdaq PHLX Rule General 3, Section 7.

initial fee that is greater than $0 and no more than $5,000.[339]

Regarding monthly or annual membership fees, most exchanges' ongoing monthly or annual membership fees generally range from $1,500 to $7,200.[340] Again, these ongoing exchange membership costs are generally lower than the annual costs estimated for being a member of FINRA.

e. Policies and Procedures Related to the Narrowed Criteria for Exemption From Association Membership

Non-FINRA member firms that choose not to join an Association but wish to continue to trade off-exchange (or on exchanges of which they are not members) must do so in a manner that conforms to the routing or stock-option order exemptions. To rely on the stock-option order exemption, the proposal would require non-FINRA member firms to establish, maintain, and enforce policies and procedures as discussed above.[341] The Commission estimates that firms would incur a burden of 8 hours in initially preparing these policies and procedures.[342] Furthermore, the burden of maintaining and enforcing such policies and procedures, including a review of such policies at least annually, would be approximately 48 hours.[343] The Commission estimated an initial implementation cost of approximately $2,561 and an annual ongoing cost of approximately $15,708 for non-FINRA member firms that wish to utilize the exemptions and perform this work internally; for firms that outsource this work, costs are likely to be higher.[344] Firms that choose to join FINRA would not incur these costs as the exemptions would not be relevant.

f. Indirect Costs

In addition to possibly incurring costs related to joining exchanges, non-FINRA member firms that choose not to join an Association would lose the benefits of trading in off-member-exchange markets. As mentioned above, non-FINRA member firms are significant participants in off-exchange activity. Much of this trading is attributed to 12 non-FINRA member firms, and the activity level across those firms varies widely. The Commission estimates that those 12 non-FINRA member firms executed $744 billion in off-exchange volume in September of 2021, while the remaining non-FINRA member firms executed $46 billion. The Commission cannot estimate the likelihood of these firms choosing to cease off-exchange activity rather than joining an Association. One commenter echoed these concerns when it stated that non-members may ''curtail all off-exchange trading'' if the high costs of FINRA membership outweigh the profits.[345] The commenter believes that some firms may withdraw their broker or dealer registration and trade as a customer of a broker or dealer in order to eliminate other membership costs.[346] The Commission believes that this is a possibility and could result in less competition and could degrade market quality and regulatory oversight.[347]

Finally, those firms that choose not to join an Association would be limited in their ability to route their own transactions to comply with the requirements of Regulation NMS and the Options Linkage Plan.[348] Their transactions would have to be routed through a broker or dealer of an exchange of which they are a member, or routed by a broker or dealer only to those exchanges of which they are members. The routing of orders of non-FINRA member firms that do not join an Association would be determined by the routing broker or dealer of the exchanges of which they are members. This loss in choice could lead to higher costs for routing and costs associated with increased latency because the exchange's routing broker or dealer may have a telecommunications infrastructure that is inferior to that of the broker or dealer that previously provided connectivity to that exchange to the non-FINRA member firm.[349]

*D. Alternatives*

1. Include a Floor Member Hedging Exemption

The Commission could provide an exemption from Association membership if a dealer that meets the criteria of paragraphs (a) and (b) of the rule, conducts business on the floor of a single exchange, and its trading elsewhere is proprietary and solely for the purpose of hedging its floor-based exchange trading activity on its member exchange. The hedging exemption could be limited to firms that trade on the floor of a national securities exchange. Specifically, the alternative would provide that a dealer that conducts

[339] IEX does not assess any initial fees. *See* IEX Exchange Fee Schedule, *available at https://exchange.iex.io/resources/trading/fee-schedule/* (last visited July 22, 2022) (omitting any mention of an initial membership fee). Other exchanges do have initial application fees. *See, e.g.,* Nasdaq ISE Fee Schedule, Options 7, Section 9, *available at https://listingcenter.nasdaq.com/rulebook/ise/rules/ise-options-7* (last visited July 22, 2022) (assessing a one-time application fee of $3,500 for an ''Electronic Access Member''); Membership Application for New York Stock Exchange LLC and NYSE American LLC at 2 (Oct. 2019), *available at https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_and_American_Membership_Application.pdf* (last visited July 22, 2022) (discussing the Non-Public Firm Application Fee of $2,500); Nasdaq Price List, *available at http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2* (last visited July 22, 2022) (discussing the Nasdaq Application Fee of $2,000); Cboe Fee Schedule at 10 (June 30, 2022), *available at https://cdn.cboe.com/resources/membership/Cboe_FeeSchedule.pdf* (last visited July 22, 2022) (typically assessing a trading permit holder organization application fee on all of its members of $5,000). If a firm is organized as a sole proprietorship, the application fee for Cboe is only $3,000. *Id.*

[340] *See, e.g.,* Cboe BYX Exchange, Inc. Fee Schedule (eff. May 2, 2022), *available at https://www.cboe.com/us/equities/membership/fee_schedule/byx/* (last visited July 22, 2022) (noting an annual membership fee of $2,500); Cboe EDGA Exchange, Inc. Fee Schedule (eff. Apr. 1, 2022), *https://www.cboe.com/us/equities/membership/fee_schedule/edga/* (last visited July 22, 2022) (same); NYSE Chicago, Inc. Fee Schedule (updated Jan. 2, 2022), *available at https://www.nyse.com/publicdocs/nyse/NYSE_Chicago_Fee_Schedule.pdf* (last visited July 22, 2022) (assessing an annual membership fee of $7,200); MIAX Fee Schedule at 20 (Mar. 1, 2022), *available at https://www.miaxoptions.com/sites/default/files/fee_schedule-files/MIAX_Options_Fee_Schedule_03012022.pdf* (last visited July 22, 2022) (assessing a monthly trading permit fee for an ''Electronic Exchange Member'' of $1,500).

[341] *See supra* section III.B.2.

[342] This figure is based on the following: (Compliance Manager at 5 hours) + (Compliance Attorney at 2.5 hours) + (Director of Compliance at 0.5 hours) = 8 burden hours per dealer. *See infra* note 357. As is discussed in more detail in the Paperwork Reduction Act discussion, the Commission based this estimate on the estimated burdens imposed by other rules applicable to brokers and dealers, such as Regulation SBSR. *See also infra* note 359.

[343] This figure is based on the following: (Compliance Manager at 30 hours) + (Compliance Attorney at 12 hours) + (Director of Compliance at 6 hours) = 48 burden hours per broker or dealer. *See infra* note 358.

[344] For firms that perform this work internally, the initial cost estimate assumes 5 hours of work performed by a Compliance Manager at an hourly rate of $293, 2.5 hours performed by Compliance Attorneys at an hourly rate of $346, and 0.5 hour of work performed by the Director of Compliance at an hourly rate of $461. The annual cost estimate assumes 30 hours of work by a Compliance Manager at an hourly rate of $293, 12 hours by Compliance Attorneys at an hourly rate of $346, and 6 hours by the Director of Compliance at an hourly rate of $461. Hourly salary figure is from SIFMA's Management & Professional Earnings in the Securities Industry 2013, modified by Commission staff to account for an 1800 hour work-year and inflation and multiplied by 5.35 to account for bonuses, firm size, employee benefits and overhead.

[345] *See* HRT Letter at 10.

[346] *Id.*

[347] *Id.*

[348] The exemption related to routing to comply with Regulation NMS and the Options Linkage Plan is discussed in *supra* section III.B.1.

[349] Firms in the business of providing connectivity to exchanges are likely to compete on the basis of their technology. The Commission assumes that some firms that do not join FINRA will have some orders (those governed under the Regulation NMS or the Options Linkage Plan provisions to prevent trade-throughs) routed using technology inferior to the technology of their firm of choice.

business on the floor of only a single national securities exchange may affect transactions in securities otherwise than on that exchange, for the dealer's own account with or through another registered broker or dealer, that are solely for the purpose of hedging the risks of its floor-based exchange activity, by reducing or otherwise mitigating the risks thereof. The alternative proposal also could require a dealer seeking to rely on this exemption to establish, maintain, and enforce written policies and procedures reasonably designed to ensure and demonstrate that such hedging transactions reduce or otherwise mitigate the risks of the financial exposure the dealer incurs as a result of its floor-based activity, and to preserve a copy of its policies and procedures in a manner consistent with 17 CFR 240.17a-4 until three years after the date the policies and procedures are replaced with updated policies and procedures.

The Commission believes that this alternative could provide a limited exemption from Association membership that is consistent with the original design of Rule 15b9–1's exclusion for proprietary trading. Today, few dealers limit their quoting and other non-hedging trading activities to a particular exchange. Under this alternative, the registered dealers among this group that limit their primary trading business to a single exchange floor may continue to hedge the risk of that business by effecting securities transactions on another exchange or in the off-exchange market that are solely for the purpose of hedging the dealers' on-exchange activity, without such transactions triggering a requirement to join an Association.

The Commission also believes that this alternative approach, and in particular the limitation of its coverage to dealers that engage in floor trading and are a member of only a single exchange, could be consistent with the public interest and the protection of investors. A dealer's hedging activity resulting from its trading activity on multiple exchanges of which the dealer is a member presents cross-market surveillance concerns as previously discussed, and therefore FINRA would be in the best position to conduct regulatory oversight to the extent that the dealer's hedging transactions take place elsewhere than on exchanges of which it is a member. By contrast, so long as a dealer's hedging activity results from floor trading activity that is confined to a single exchange of which the dealer is a member, that exchange could be able to adequately supervise the hedging activities of the dealer, consistent with the public interest and protection of investors.

In addition, requiring written policies and procedures, as described above, would facilitate exchange supervision of dealers relying on such floor member hedging exemption, as it could provide an efficient and effective way for the relevant exchange to assess compliance with the proposed exemption. This could further serve the public interest and help protect investors.

Because the alternative hedging exemption for floor traders is intended to allow a dealer to reduce or otherwise mitigate its risk, such as position risk, incurred in connection with its exchange-based dealer activities, it would be limited to transactions for the dealer's own account. In addition, because the dealer would not itself be a member of any other national securities exchange on which hedging transactions may be effected, or of an Association, such transactions would need to be conducted with or through another registered broker or dealer that is a member of such other national securities exchange or a member of an Association (or of both).

However, the Commission believes that this alternative exemption would currently apply to very few and as little as zero non-FINRA member firms. Given that so few non-FINRA member firms would qualify for the exemption, the Commission believes that there is little value in including such an exemption. Additionally, by including the exemption the Commission believes that unforeseen circumstances could allow for firms to take advantage of the exemption in the future in ways that are not consistent with the original intent of the exemption, much like firms currently rely on Rule 15b9–1 in ways that are not consistent with the original intent.

2. Exchange Membership Alternative

The amendments, in accordance with Section 15(b)(8), preclude any firm that is not a member of an Association from trading on exchanges of which it is not a member.[350] Further, under the amendments, if a firm becomes a member of an Association, it would not have to become a member of each exchange upon which it trades.[351] The Commission has also considered requiring brokers and dealers to become a member of every exchange on which they trade and to become a member of an Association to trade off-exchange (''Exchange Membership Alternative'').

In considering the Exchange Membership Alternative, the Commission weighed whether the same issue of off-exchange activity not being subject to effective regulatory oversight that exists when a non-FINRA member firm trades off-exchange is present when a member or non-FINRA member firm trades on an exchange of which it is not a member (through a member of that exchange). The Commission continues to believe that the amendments adequately address the issue of establishing effective oversight of off-exchange activity and that the more onerous Exchange Membership Alternative would not provide any additional regulatory benefit beyond the benefits the amendments provide for several reasons. First, while some exchanges may lack specialized regulatory personnel to directly surveil their members' trading off-exchange, FINRA has these resources to surveil the activity of member firms both on exchanges and off-exchange. Accordingly, requiring member firms to also become members of each exchange on which they effect transactions, including indirectly, would be unnecessarily duplicative because FINRA already has the resources necessary to surveil the activity of a member firm trading on an exchange of which it is not a member. In addition, while some exchanges do not have a specialized rule set to govern their members' activity in the off-exchange market, FINRA's rules are often consistent with the trading rules of exchanges on which members transact.[352] If a member firm were to violate an exchange rule on an exchange of which it is not a member, FINRA would have the jurisdiction needed to address the resulting violation. Therefore, not requiring that the member firm also become a member of that exchange would not prevent FINRA from exercising jurisdiction over the matter.

The Exchange Membership Alternative might have required firms to become members of more SROs than required under the proposed amendments, which would impose additional costs. In particular, some non-FINRA member firms that would become member firms under the proposed amendments would also need to become members of additional exchanges or cease trading on those exchanges. In addition, some current

[350] The amendments provide limited exemptions for order routing to satisfy certain provisions of Regulation NMS and the Options Linkage Plan and for executing the stock leg of a stock-option order.

[351] In order to trade on exchanges of which it is not a member, the firm would have to trade with or through another broker or dealer that is a member of that exchange.

[352] *See supra* notes 53–54 and accompanying text.

member firms would also need to become members of additional exchanges.

3. Retaining the *De Minimis* Allowance

The Commission considered retaining the $1,000 *de minimis* allowance for trading other than on an exchange of which the non-FINRA member firm is a member but removing the exception for proprietary trading conducted with or through another registered broker or dealer. As discussed above,[353] the Commission continues to believe that the magnitude of the *de minimis* allowance is no longer economically meaningful. Furthermore, the Commission continues to believe that the commission sharing arrangements discussed previously [354] are rarely, if ever, used.

4. Eliminate the Rule 15b9–1 Exemption

The Commission could eliminate Rule 15b9–1 altogether, leaving no exemption from Section 15(b)(8) of the Act. This would cause all current non-FINRA member firms that effect off-member-exchange securities transactions to be required by Section 15(b)(8) to join FINRA, which could improve FINRA's ability to surveil activity of member firms both on and off exchange, as well as investigate potentially violative behavior. Though, the Commission believes that such violative behavior by such firms may be easily identifiable under the proposed amendments, due to the fact that the proposed exemptions are narrow. However, eliminating the exemption for firms that would qualify for the routing exemption or the stock-option order exemption may prove to unnecessarily increase the costs for such firms. The Commission also believes that the routing exemption and stock-option order exemption will provide important avenues for providing liquidity and, therefore, eliminating the exemptions may drive these firms from the market and lead to a reduction in liquidity and market quality.

*E. Request for Comment on Economic Analysis*

The Commission requests comment on all aspects of this Economic Analysis, including whether the analysis has: (1) identified all benefits and costs, including all effects on efficiency, competition, and capital formation; (2) given due consideration to each benefit and cost, including each effect on efficiency, competition, and capital formation; and (3) identified and considered reasonable alternatives to the proposed rule amendments. We request and encourage any interested person to submit comments regarding the proposed rules, our analysis of the potential effects of the proposed amendments, and other matters that may have an effect on the proposed rules. We request that commenters identify sources of data and information as well as provide data and information to assist us in analyzing the economic consequences of the proposed rules and proposed amendments. We also are interested in comments on the qualitative benefits and costs we have identified and any benefits and costs we may have overlooked. In addition to our general request for comments on the Economic Analysis associated with the proposed rules and proposed amendments, we request specific comment on certain aspects of the proposal:

61. *Regulatory Structure and Activity Levels of Non-FINRA Member Firms.* The Economic Analysis discusses the current landscape for non-FINRA member firms.

- Is the Commission's description of the current activity levels of non-FINRA member firms accurate? If not, can you provide additional data to better describe non-FINRA member firms' activity levels?
- Is there information or data on the trading activity level of non-FINRA member firms, in TRACE reportable securities other than U.S. Treasury securities? If so, please provide data.

62. *Current Market Oversight.* The Economic Analysis describes the current structure of market oversight for non-FINRA member firms:

- Is the Commission's description of current market oversight accurate? Why or why not?

63. *Effects on Regulatory Supervision.* Under the amendments, some non-FINRA member firms would be required to join an Association and be subject to additional market oversight.

- Would the proposed amendment improve regulatory oversight of current non-FINRA member firms? If not, is there currently adequate oversight of non-FINRA member firms?
- Would improved regulatory oversight improve market quality in financial markets?
- Would the proposed rules improve transparency for non-FINRA member firms that have significant trading activities in U.S. Treasury securities markets?
- Are there significant limitations, beyond those discussed above, in the economic analysis of the effect on regulatory supervision?

64. *Firm Response and Effect on Market Activity.* Under the proposed amendment, non-FINRA member firms would be required to either join an Association or change their trading practices to qualify for an exemption.

- Will some non-FINRA member firms change their business practices, including ceasing to trade securities, as opposed to joining an Association as a result of the proposed amendments? Why or why not?
- Will some non-FINRA member firms join each exchange on which they trade as opposed to joining an Association as a result of the proposed amendments? Why or why not?
- Will the proposed amendments lead to a reduction of liquidity as a result of non-FINRA member firms changing their business practices as due to the proposed amendments? Why or why not?

65. *Competitive Effects on Off-Exchange Market Regulation.* The proposed amendments may create an incentive for the creation of another Association to compete with FINRA.

- Could the proposed amendments provide a strong enough incentive for the creation of a second Association? Why or why not? Do you believe that there are barriers to entry that would prevent a second Association from being formed?

66. *Effects on Current FINRA Member Firms.* The proposed amendments are likely to have indirect effects on FINRA member firms as well.

- Would the proposed amendments create a more level regulatory playing field for FINRA member firms relative to non-FINRA member firms?

67. *Effects on Price Discovery*

- Would the proposed amendments decrease competitive advantages and reduce costs borne by the investing public through increased price discovery? Why or why not?

68. *Costs.* The proposed amendments will have several direct costs for non-FINRA member firms.

- Has the proposal accurately described the costs to non-FINRA member firms? Why or why not?
- Has the proposal accurately estimated the fees assessed by FINRA? If not, can you provide estimates?
- In 2015 FINRA proposed amendments to the TAF in response to a previous Commission proposal to amend the 15b9–1 exemption. If the proposed FINRA amendments are adopted, how would this change the economic effects?

69. *Alternatives.* The Commission listed several reasonable alternatives.

- Do you believe that the economic effects of each of the provided

[353] *See supra* section III.A.

[354] *Id.*

alternatives has been accurately described and evaluated?

- Are there other alternatives?
- How many non-FINRA members would qualify for a floor trading hedging exemption? Is zero accurate?

## VII. Paperwork Reduction Act

Certain provisions of the proposed amendments to Rule 15b9–1 contain ''collection of information requirements'' within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[355] As discussed in Section III.B, the proposed amendments to Rule 15b9–1, if adopted, would require brokers or dealers relying on the stock-option order exemption to establish, maintain, and enforce certain written policies and procedures. Compliance with these collections of information requirements would be mandatory for firms relying on the amended rule. The Commission is submitting these collections of information to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The title of this new collection of information is ''Rule 15b9–1 Exemptions.'' An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the agency displays a currently valid control number.

### *A. Summary of Collection of Information*

The proposed amendments to Rule 15b9–1 include a collection of information within the meaning of the PRA for brokers or dealers relying on the stock-option order exemption under the amended rule. The stock-option order exemption under the amendments to Rule 15b9–1 would permit a qualifying broker or dealer to effect securities transactions otherwise than on an exchange where it is a member, with or through another broker or dealer, that are solely for the purpose of executing the stock leg of a stock-option order. Brokers or dealers relying on this exemption would be required to establish, maintain, and enforce written policies and procedures reasonably designed to ensure and demonstrate that such transactions are solely for the purpose of executing the stock leg of a stock-option order. In addition, such brokers or dealers would be required to preserve a copy of their policies and procedures in a manner consistent with Rule 17a–4 until three years after the date the policies and procedures are replaced with updated policies and procedures.

### *B. Proposed Use of Information*

The policies and procedures required under amended Rule 15b9–1 would be used by the Commission and SROs to understand how brokers and dealers relying on the exemption evaluate whether the securities transactions that they effect elsewhere than an exchange where they are a member are solely for the purpose of executing the stock leg of a stock-option order and, more generally, how such brokers and dealers are complying with the requirements of the exemption and Rule 15b9–1. These policies and procedures would be used generally by the Commission as part of its ongoing efforts to monitor and enforce compliance with the federal securities laws, including Section 15(b)(8) of the Act and Rule 15b9–1 thereunder. In addition, SROs may use the information to monitor and enforce compliance by their members with applicable SRO rules and the federal securities laws.

### *C. Respondents*

The Commission believes that a small number of brokers or dealers would rely on the stock-option order exemption. The Commission estimates that, based on publicly available information reviewed covering the end of April 2022, there are approximately 65 brokers-dealers registered with the Commission that are currently a member of an exchange but not a member of an Association. The Commission believes that some, but not all, of these brokers-dealers would likely choose to avail themselves of the stock-option order exemption, because not all of them handle stock-option orders or, for those that do handle stock-option orders, they may effect the execution of stock leg components of those orders on exchanges where they are a member. The Commission estimates that seven firms could potentially rely on the stock-option order exemption and would therefore be required to comply with the policies and procedures requirement.[356] The Commission believes that some of these firms could want the ability to effect securities transactions elsewhere than an exchange where they are a member that are not for the purpose of executing the stock leg of a stock-option order, and may, accordingly, choose to join an Association as a result of the amendments to Rule 15b9–1.

### *D. Total Initial and Annual Reporting and Recordkeeping Burdens*

The Commission estimates that the one-time, initial burden for a broker or dealer to establish written policies and procedures as required under amended Rule 15b9–1 would be approximately 8 hours.[357] This figure is based on the estimated number of hours to develop a set of written policies and procedures, including review and approval by appropriate legal personnel. The Commission notes that the policies and procedures proposed in the amended rule are limited to those transactions that are solely for the purpose of executing the stock leg of a stock-option order. In addition, the Commission estimates that the annual burden of maintaining and enforcing such policies and procedures, including a review of such policies at least annually, would be approximately 48 hours for each broker or dealer.[358] This figure includes an estimate of hours related to reviewing existing policies and procedures, making necessary updates, conducting ongoing training, maintaining relevant systems and internal controls, performing necessary testing and monitoring of stock-leg transactions as they relate to the broker's or dealer's activities and maintaining copies of the policies and procedures for the period of time required by the amended rule.

The Commission estimates that the initial, first year burden associated with amended Rule 15b9–1 would be 56 hours per broker or dealer, which corresponds to an initial aggregate burden of 392 hours.[359] The Commission estimates that the ongoing annualized burden associated with Rule 15b9–1 would be 48 hours per broker or dealer, which corresponds to an ongoing

[355] 44 U.S.C. 3501 *et seq.*

[356] *See supra* section III.B.2.

[357] This figure is based on the following: (Compliance Manager at 5 hours) + (Compliance Attorney at 2.5 hours) + (Director of Compliance at 0.5 hour) = 8 burden hours per broker or dealer.

[358] This figure is based on the following: (Compliance Manager at 30 hours) + (Compliance Attorney at 12 hours) + (Director of Compliance at 6 hours) = 48 burden hours per broker or dealer.

[359] This figure is based on the following: ((8 burden hours per broker or dealer) + (48 burden hours per broker or dealer)) × (7 brokers and dealers) = 392 burden hours during the first year. In estimating these burden hours, the Commission also examined the estimated initial and ongoing burden hours imposed on registered security-based swap dealers under Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information. *See* Exchange Act Release No. 74244 (February 11, 2015) 80 FR 14564, 14683 (March 19, 2015) (''Regulation SBSR''). Regulation SBSR requires registered security-based swap dealers to establish, maintain, and enforce written policies and procedures that are reasonably designed to ensure compliance with any security-based swap transaction reporting obligations. *Id.* The estimated initial and ongoing compliance burden on registered security-based swap dealers under Regulation SBSR were 216 burden hours and 120 burden hours, respectively. *Id.* The policies and procedures under the proposed amendments to Rule 15b9–1 are much more limited in nature.

annualized aggregate burden of 336 hours.[360]

*E. Collection of Information Is Mandatory*

All of the collection of information discussed above would be mandatory.

*F. Confidentiality of Responses to Collection of Information*

To the extent that the Commission receives confidential information pursuant to the collection of information, such information will be kept confidential, subject to the provisions of applicable law.[361]

*G. Retention Period for Recordkeeping Requirements*

Brokers or dealers seeking to take advantage of the stock-option order exemption would be required to preserve a copy of their policies and procedures in a manner consistent with Rule 17a–4 [362] until three years after the date the policies and procedures are replaced with updated policies and procedures.

*H. Request for Comments*

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comment to:

70. Evaluate whether the proposed collection of information is necessary for the proper performance of our functions, including whether the information shall have practical utility;

71. Evaluate the accuracy of our estimate of the burden of the proposed collection of information;

72. Determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and

73. Evaluate whether there are ways to minimize the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons submitting comments on the collection of information requirements should direct them to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should also send a copy of their comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090, with reference to File Number S7–05–15. Requests for materials submitted to OMB by the Commission with regard to this collection of information should be in writing, with reference to File Number S7–05–15 and be submitted to the Securities and Exchange Commission, Office of FOIA/PA Services, 100 F Street NE, Washington, DC 20549–2736. As OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

## VIII. Consideration of Impact on Economy

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, (''SBREFA''),[363] the Commission requests comment on the potential effect of the proposed amendments to Rule 15b9–1 on the United States economy on an annual basis. The Commission also requests comment on any potential increases in costs or prices for consumers or individual industries, and any potential effect on competition, investment, or innovation. Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

## IX. Regulatory Flexibility Act Certification

Section 3(a) of the Regulatory Flexibility Act of 1980 [364] (''RFA'') requires the Commission to undertake an initial regulatory flexibility analysis of the impact of the rule amendments on small entities unless the Commission certifies that the rule would not have a significant economic impact on a substantial number of small entities.[365] For purposes of Commission rulemaking in connection with the RFA,[366] a small entity includes a broker or dealer that: (1) had total capital (net worth plus subordinated liabilities) of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a–5(d) under the Exchange Act,[367] or, if not required to file such statements, a broker or dealer with total capital (net worth plus subordinated liabilities) of less than $500,000 on the last day of the preceding fiscal year (or in the time that it has been in business, if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization.[368]

The Commission examined recent FOCUS data for the 3,528 active brokers and dealers overseen by the Commission, including 3,454 brokers and dealers that are FINRA members and the 65 non-FINRA member firms as of April 2022 and estimates that not more than four of the affected entities have net capital of $500,000 or less and are not affiliates of larger organizations. The Commission oversees approximately 3,528 brokers and dealers, of which 740 have net capital of $500,000 or less and are not affiliates of larger organizations.[369] Because the Commission estimates that not more than four small entities out of 740 total small entities currently registered with the Commission would be required to become FINRA members as a result of the proposed rule changes, the Commission certifies that the proposed amendments to Rule 15b9–1 would not, if adopted, have a significant economic impact on a substantial number of small entities.[370]

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[360] This figure is based on the following: (48 burden hours per broker or dealer) $\times$ (7 brokers and dealers) = 336 ongoing, annualized aggregate burden hours.

[361] *See, e.g.,* 5 U.S.C. 552 *et seq.;* 15 U.S.C. 78x (governing the public availability of information obtained by the Commission).

[362] 17 CFR 240.17a–4. Registered brokers and dealers are already subject to existing recordkeeping and retention requirements under Rule 17a–4. However, amended Rule 15b9–1 contains a requirement that a broker or dealer relying on the stock-option order exemption preserve a copy of its policies and procedures in a manner consistent with Rule 17a–4 until three years after the date the policies and procedures are replaced with updated policies and procedures. The burdens associated with this recordkeeping obligation have been accounted for in the burden estimates discussed above for amended Rule 15b9–1.

[363] Public Law 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C., and as a note to 5 U.S.C. 601).

[364] 5 U.S.C. 603(a).

[365] 5 U.S.C. 605(b).

[366] Although Section 601(b) of the RFA defines the term ''small entity,'' the statute permits agencies to formulate their own definitions. The Commission has adopted definitions for the term ''small entity'' for the purposes of Commission rulemaking in accordance with the RFA. Those definitions, as relevant to this rulemaking, are set forth in Rule 0–10 under the Exchange Act, 17 CFR 240.0–10. *See* Exchange Act Release No. 18451 (January 28, 1982), 47 FR 5215 (February 4, 1982) (File No. AS–305).

[367] 17 CFR 240.17a–5(d).

[368] *See* 17 CFR 240.0–10(c).

[369] Data from FOCUS for Quarter 4 of 2021.

[370] One commenter to the 2015 Proposal disagreed with the Commission's certification in the 2015 Proposal and stated that the amended rule would have a significant economic impact on a substantial number of small entities. Specifically, the commenter stated that 12 options exchange member firms that were not FINRA members in reliance on current Rule 15b9–1 conduct off-exchange trading on behalf of their clients, were likely small entities, and would not be eligible for the then-proposed dealer hedging exemption. *See* NYSE/NASDAQ Letter at 4 and n. 5. Since the Commission no longer is including a hedging exemption in amended Rule 15b9–1, these firms could still be impacted by the amended rule. But the Commission preliminarily believes that these options exchange member firms' off-exchange trading could be stock trading in relation to their handling of stock-option orders and, therefore, these firms may be able to rely on the stock-option order exemption that the Commission is proposing today. Moreover, as noted above, the Commission now estimates that not more than four small entities would be impacted by the proposed amendments to

*Requests for Comment:*

The Commission requests comment on all aspects of the foregoing certification as well as, in particular, on the following questions:

74. We solicit comment as to whether the proposed amendments could have impacts on small entities that have not been considered. We request that commenters describe the nature of any impacts on small entities and provide empirical data to support the extent of such effect, including the magnitude of any economic impact the proposed amendments would have on small entities.

75. Do commenters believe that the proposed amendments would have a significant economic impact on a substantial number of small entities? If so, how should the Commission alter the proposed amendments to lessen the impact on these entities?

Such comments will be placed in the same public file as comments on the proposed amendments to Rule 15b9–1. Persons wishing to submit written comments should refer to the instructions for submitting comments in the front of this release.

## X. Statutory Authority

The Exchange Act, 15 U.S.C. 78a *et seq.,* and particularly sections 3, 15, 15A, 17, 19, 23, and 36 thereof.

Rule 15b9–1. As a result, the Commission believes that the proposed amendments to Rule 15b9–1 would not have a significant impact on a substantial number of small entities.

**List of Subjects in 17 CFR Part 240**

Brokers, Dealers, Registration, Securities.

For the reasons set out in the preamble, the Commission proposes to amend Title 17, Chapter II of the Code of Federal Regulations as follows:

## PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 1. The authority citation for part 240 continues to read in part as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78c–5, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l,* 78m, 78n, 78o, 78o–4, 78o–10, 78p, 78q, 78q–1, 78s, 78u–5, 78w, 78x, 78*ll,* 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, 7201, *et seq.;* and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; and Pub. L. 111–203, 939A, 124 Stat. 1376 (2010); and Pub. L. 112–106, sec. 503 and 602, 126 Stat. 326 (2012), unless otherwise noted.

* * * * *

■ 2. Section 240.15b9–1 is revised to read as follows:

### § 240.15b9–1 Exemption for certain exchange members.

Any broker or dealer required by section 15(b)(8) of the Act (15 U.S.C. 78o(b)(8)) to become a member of a registered national securities association shall be exempt from such requirement if it:

(a) Is a member of a national securities exchange;

(b) Carries no customer accounts; and

(c) Effects transactions in securities solely on a national securities exchange of which it is a member, except that with respect to this paragraph (c):

(1) A broker or dealer may effect transactions in securities otherwise than on a national securities exchange of which the broker or dealer is a member that result solely from orders that are routed by a national securities exchange of which the broker or dealer is a member to comply with 17 CFR 242.611 or the Options Order Protection and Locked/Crossed Market Plan; or

(2) A broker or dealer may effect transactions in securities otherwise than on a national securities exchange of which the broker or dealer is a member, with or through another registered broker or dealer, that are solely for the purpose of executing the stock leg of a stock-option order. A broker or dealer seeking to rely on this exception shall establish, maintain and enforce written policies and procedures reasonably designed to ensure and demonstrate that such transactions are solely for the purpose of executing the stock leg of a stock-option order. Such broker or dealer shall preserve a copy of its policies and procedures in a manner consistent with 17 CFR 240.17a–4 until three years after the date the policies and procedures are replaced with updated policies and procedures.

* * * * *

By the Commission.

Dated: July 29, 2022.

**J. Matthew DeLesDernier,**

*Deputy Secretary.*

[FR Doc. 2022–16711 Filed 8–11–22; 8:45 am]

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