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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.

EXECUTIVE OFFICE OF THE PRESIDENT

Office of the Intellectual Property Enforcement Coordinator

5 CFR Chapter CIV

RIN 0355–AA00

Freedom of Information Act and the Privacy Act

Correction

In rule document 2023–02552, appearing on pages 8207–8217, in the issue of Wednesday, February 8, 2023, make the following correction:

■ On page 8208, in the third column, in the 16th–21st lines from the bottom of the page, the words of issuance and chapter heading are corrected to read as set forth below:

For the reasons stated in the preamble, the Office of the Intellectual Property Enforcement Coordinator is establishing chapter CIV, consisting of part 10400, in title 5 of the Code of Federal Regulations to read as follows:

Chapter CIV—Office of the Intellectual Property Enforcement Coordinator

[FR Doc. C1–2023–02552 Filed 2–16–23; 8:45 am]
BILLING CODE 0099–10–D

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Parts 1710, 1714, 1717, 1724, and 1730

[Docket No. RUS–22–Electric–0031]

RIN 0572–AC57

Electric Program Streamlining and Improvement

AGENCY: Rural Utilities, USDA.

ACTION: Final rule; confirmation and response to comment.

SUMMARY: The Rural Utilities Service (RUS or Agency), an agency in the United States Department of Agriculture (USDA) Rural Development Mission area, published a final rule with comment in the **Federal Register** on November 30, 2022, to revise several regulations to streamline procedures for Electric Program borrowers, including its loan application requirements, approval of work plans and load forecasts, use of approved contracts and system design procedures and reporting requirements. Through this action, RUS is confirming the final rule as it was published and providing a response to the public comment received.

DATES: The final rule published November 30, 2022, at 87 FR 73433, is confirmed as of February 28, 2023.

FOR FURTHER INFORMATION CONTACT: Robert Coates, Branch Chief, Policy and Outreach Branch, Office of Customer Service and Technical Assistance, Rural Utilities Service; U.S. Department of Agriculture; Stop 1569, 1400 Independence Avenue SW, Washington, DC 20250–0787; telephone (202) 720–1900, email *RUSElectric@usda.gov.* Persons with disabilities or who require alternative means for communication should contact the USDA Target Center at (202) 720–2600.

SUPPLEMENTARY INFORMATION: Rural Development is a mission area within the U.S. Department of Agriculture (USDA) comprising the Rural Utilities Service, Rural Housing Service, and Rural Business-Cooperative Service. Rural Development's mission is to increase economic opportunity and improve the quality of life for all rural Americans. Rural Development meets its mission by providing loans, loan guarantees, grants, and technical assistance through numerous programs aimed at creating and improving housing, business, and infrastructure throughout rural America.

The RUS Electric Program loans, loan guarantees and grants finance the construction and improvement of rural electric infrastructure. In an effort by the RUS Electric Program to administer its program in an efficient and effective manner while improving its customer service and experience, and in response to requests from the RUS Electric Program borrowers, the Electric Program undertook a systematic review of regulations and procedures in place to administer its program. In addition to the final rule, the Electric Program has completed two other streamlining efforts to date.

The final rule that published November 30, 2022 (87 FR 73433), included a 60-day comment period that ended on January 30, 2023. The Agency received one set of comments from the Osage Nation Historic Preservation Office (ONHPO).

The Agency appreciates the comments from the ONHPO. The Agency concurs that the term *tribal areas* should be more clearly defined. The intent of the additional language is to ensure that non-Tribal borrowers obtain consent of the Tribe, when proposing a service territory that includes an area over which a Tribal government has regulatory authority, similar to the consent and permits required to build infrastructure in other jurisdictions. Additionally, borrowers must comply with Tribal law when operating in tribal areas where Tribes have regulatory authority.

The Agency agrees it is appropriate to consult with Tribes on such a definition and will do so to determine the optimal policy mechanism to define tribal areas and how to incorporate the definition into its policies and practices at a later date. Applicants, borrowers, and Tribes are encouraged to contact RUS for any needed clarification.

The crux of the additional comments from ONHPO were focused on compliance with the National Historic Preservation Act, the National Environmental Policy Act, the Native American Graves Protection and Repatriation Act, the Archaeological Resource Protection Act, the American Indian Religious Freedom Act, and Executive Order 13007, ''Indian Sacred Sites.'' Nothing in the rule amends or alters the Agency's regulatory and administrative requirements of this program under the cited Statutes and Executive order, including the National Historic Preservation Act and associated implementing regulations.

The Agency appreciates the suggestion that it meet with Tribal Historic Preservation Departments in 2023. The Agency welcomes ongoing input from Tribal Historic Preservation Officers and the National Association of Tribal Historic Preservation Officers regarding its ongoing responsibilities under the National Historic Preservation Act.

Again, RUS appreciates and has considered the comments from the ONHPO on the final rule. Due to the responses detailed above the Agency confirms the final rule without change.

Andrew Berke,

Administrator, Rural Utilities Service.

[FR Doc. 2023–03418 Filed 2–16–23; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2022–0698]

RIN 1625–AA08

Special Local Regulation; San Diego Fleet Week Veterans Day Boat Parade; San Diego Bay, San Diego, CA

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its special local regulations for recurring marine parades, regattas, and other events in Southern California Annual Marine Events for the San Diego Captain of the Port Zone. This final rule will add one new recurring special local regulation for the San Diego Fleet Week Veterans Day Boat Parade. This action is necessary to provide for the safety of life on the navigable waters during the annual event, and will restrict vessel traffic in the designated areas during the event unless authorized by the Captain of the Port Sector San Diego or a designated representative.

DATES: This rule is effective March 20, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0698 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions about this rulemaking, call or email Lieutenant Junior Grade Shera Kim, Waterways Management, U.S. Coast Guard; telephone 619–278–7656, email *MarineEventsSD@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On August 11, 2022, The San Diego Fleet Week Foundation notified the Coast Guard that it will be hosting the San Diego Fleet Week Veterans Day Boat Parade annually on a single day during the month of November. The regulated area would cover all navigable waters of San Diego Bay, beginning at Shelter Island, proceeding northeast to Harbor Island, proceeding southeast along the shoreline to Tenth Avenue Marine Terminal, crossing the Federal navigable channel prior to the Coronado Bridge, then northwest along the shoreline of Coronado Island to the Coronado Ferry Landing.

In response, on August 31, 2022, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Special Local Regulation; San Diego Fleet Week Veterans Day Boat Parade; San Diego Bay, San Diego, CA'' (87 FR 53700). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this annual marine event. During the comment period that ended October 3, 2022, we received zero comments.

The event is expected to draw a high concentration of vessels to the San Diego Bay area along the proposed parade route. Traditionally, the San Diego Bay area serves as a major thoroughfare for commercial traffic, naval operations, ferry routes, and a number of other recreational uses. The Coast Guard is establishing this special local regulation to minimize impacts on this congested waterway. This regulation is necessary to ensure the safety of individuals, property, and the marine environment on the navigable waters of San Diego Bay during this event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041 (previously 33 U.S.C. 1231). The Captain of the Port Sector San Diego (COTP) has determined that potential hazards associated with the San Diego Fleet Week Veterans Day Boat Parade annually on a weekend during the month of November will present a safety of life concern on navigable waters. The purpose of this rule is to ensure safety of life on the navigable waters in the safety zone before, during, and after the scheduled event.

For the reasons stated above, we are issuing this rule.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published August 31, 2022. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation annually on a weekend in November. The special local regulation will cover all navigable waters of San Diego Bay, beginning at Shelter Island, proceeding northeast to Harbor Island, proceeding southeast along the shoreline to Tenth Avenue Marine Terminal, crossing the Federal navigable channel prior to the Coronado Bridge, then northwest along the shoreline of Coronado Island to the Coronado Ferry Landing. No vessel or person will be permitted to enter the special local regulation without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the special local regulation. Vessel traffic would be able to safely transit around this special local regulation, which would impact a small-designated area of the San Diego Bay. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the areas, and the rule would allow vessels to seek permission to enter the areas.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and

operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation that would prohibit persons and vessels from transiting the regulated area during the parade. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. In § 100.1101, amend table 1 by adding an entry for ''17. San Diego Fleet Week Veterans Day Boat Parade'' to read as follows:

§ 100.1101 Southern California Annual Marine Events for the San Diego Captain of the Port Zone.

* * * * *

TABLE 1 TO § 100.1101

*	*	*	*	*	*	*

17. San Diego Fleet Week Veterans Day Boat Parade

Sponsor	San Diego Fleet Week Foundation.
Event Description	SS Boat parade.
Date	One weekend in November.
Location	San Diego Bay, CA.
Regulated Area	All waters of San Diego Bay, from surface to bottom, beginning at Shelter Island, proceeding northeast to Harbor Island, proceeding southeast along the shoreline to Tenth Avenue Marine Terminal, crossing the Federal navigable channel prior to the Coronado Bridge, then northwest along the shoreline of Coronado Island to the Coronado Ferry Landing.

Dated: November 7, 2022.

J.W. Spitler,

Captain, U.S. Coast Guard, Captain of the Port Sector San Diego.

Editorial note: This document was received for publication by the Office of the Federal Register on February 14, 2023.

[FR Doc. 2023–03377 Filed 2–16–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0197]

RIN 1625–AA00

Safety Zone: Macy's July 4th Fireworks, East River, NY

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is removing the safety zone established by the Captain of the Port Sector New York on April 11, 2001, that can be found under [Docket CGD01–00–242], titled ''Safety Zone: Macy's July 4th Fireworks, East River, NY.'' The safety zone was established to protect persons and vessels from potential hazards associated with the annual 4th of July fireworks display and high concentration of spectator vessels. The Coast Guard has since established a Special Local Regulation that regulates marine traffic in conjunction with the annual marine event, eliminating the need for the safety zone established in 2001. This action removes the existing regulations related to the initial safety zone.

DATES: This rule is effective February 17, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0197 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MSTC S. Stevenson, Waterways Management Division, U.S. Coast Guard; telephone 718–354–4197, email *D01-SMB-SecNY-Waterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port New York
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On April 11, 2001, the Coast Guard established the initial safety zone in a final rule, titled ''Safety Zone: Macy's July 4th Fireworks, East River, NY'' (66 FR 20403). The safety zone was established to protect people and vessels from the potential hazards associated with the annual 4th of July fireworks display and the high concentration of spectator vessels on the East River and Upper Bay during the show. The final rule established a permanent safety zone on the East River and Upper Bay. It contained a spectator area on the East River between the Williamsburg Bridge and North 9th Street, Brooklyn, NY.

On June 21, 2005, the Coast Guard published another final rule, ''Safety Zone: Macy's July 4th Fireworks, East River and Upper New York Bay, NY'' (70 FR 35534). This final rule modified the parameters of the safety zone to accommodate an added fireworks discharge site near Liberty Island.

Since approximately 2015, the safety zone that this action is removing has not been actively enforced. Instead, temporary safety zones were established to better accommodate the fireworks display and the vessel congestion on the waterway.

On June 21, 2022, the Coast Guard established a new permanent special local regulation, titled ''Special Local Regulation; East River 4th of July Fireworks, New York, NY'' (87 FR 36763). This action included creating a moving protection zone for the loaded fireworks barges, a buffer zone, and four separate spectator areas that separate vessels based on size. This new special local regulation mirrored the temporary final rules used in recent years, effectively replacing the initial safety zone.

The Coast Guard is issuing this final rule without prior notice and opportunity to comment per authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for a good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b), the Coast Guard finds good cause for not publishing a notice of proposed rulemaking (NPRM) cocerning this rule. Sufficient time has passed since the establishment of the special local regulation and the last enforcement of this safety zone for the Coast Guard to receive any adverse public implications. In addition, during the initial NPRM process of establishing the safety zone, no adverse comments were received that pertained to the Coast Guard modifying the safety zone appropriately. Therefore the Coast Guard has determined that it is unnecessary and contrary to the public interest to publish an NPRM because this action is merely removing a regulatory restriction that is no longer needed.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The safety zone is no longer needed and has not been enforced since 2015, since temporary safety zones were established to accommodate the fireworks display and amount of spectator vessels on the waterway. This rule requires an administrative change to the **Federal Register** to relieve a regulatory restriction that is no longer applicable or necessary. Therefore, a delayed effective date is unnecessary and contrary to the public interest.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port New York (COTP) has determined that the potential hazards associated with the annual fireworks display and high concentration of spectator's vessels are better managed by the permanent special local regulation established on June 21, 2022. Therefore, the safety zone that this action is removing is no longer necessary.

IV. Discussion of the Rule

On April 11, 2001, the Coast Guard published a final rule titled ''Safety Zone: Macy's July 4th Fireworks, East River, NY'' in the **Federal Register** (66 FR 20403). At the time, the safety zone was necessary to protect people and vessels from potential hazards with the annual 4th of July fireworks display on the East River, NY. The initial final rule establishing this safety zone was later modified to expand the parameters. However, since approximately 2015, several temporary special local regulations effectively substituted the safety zone. The Coast Guard has since established a permanent special local regulation that better manages the hazards associated with the annual fireworks display. therefore the safety

zone that this action removes is no longer needed.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the fact that actions taken to disestablish a safety zone are not considered a significant regulatory action.

B. Impact on Small Entities

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

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

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves removing a safety zone that was established to manage vessel traffic immediately before, during, and after a fireworks display. It is categorically excluded from further review under paragraph L60(b) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

§ 165.166 [Removed]

■ 2. Remove § 165.166.

Dated: January 31, 2023.

Z. Merchant,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2023–03446 Filed 2–16–23; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2021–0658; FRL–10474–01–OCSPP]

Penthiopyrad; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of penthiopyrad in or on banana. Interregional Research Project Number 4, IR–4, requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective February 17, 2023. Objections and requests for hearings must be received on or before April 18, 2023, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2021–0658, is available at *https://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. 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 and the OPP Docket is (202) 566–1744.

For the latest status information on EPA/DC services, docket access, visit *https://www.epa.gov/.*

FOR FURTHER INFORMATION CONTACT: Daniel Rosenblatt, Acting Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; main telephone number: (202) 506–2875; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Office of the Federal Register's e-CFR site at *https://www.ecfr.gov//title-40.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2021–0658 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing and must be received by the Hearing Clerk on or before April 18, 2023. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2021–0658, by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *https://www.epa.gov/dockets.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of November 17, 2022 (87 FR 68959) (FRL–9410–07–OCSPP), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 1E8951) by IR–4, NC State University, 1730 Varsity Drive, Venture IV, Suite 210, Raleigh, NC 27606. The petition requested that 40 CFR 180.658 be amended to establish a tolerance for residues of the fungicide penthiopyrad, *N*-[2-(1,3-dimethylbutyl)-3-thienyl]-1-methyl-3-(trifluoromethyl)-1H-pyrazole-4-carboxamide, in or on banana at 2 parts per million (ppm). That document referenced a summary of the petition prepared by IR–4, the petitioner, which is available in the docket, *https://www.regulations.gov.* There were no comments received in response to the Notice of Filing.

Based upon review of the data supporting the petition and in accordance with its authority under FFDCA section 408(d)(4)(A)(i), EPA is establishing the tolerance for residues of penthiopyrad in or on banana at a different level than requested by the petitioner. The reason for this change is explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for penthiopyrad including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with penthiopyrad follows.

In an effort to streamline its publications in the **Federal Register**, EPA is not reprinting sections that repeat what has been previously published for tolerance rulemaking of the same pesticide chemical. Where scientific information concerning a particular chemical remains unchanged, the content of those sections would not vary between tolerance rulemaking and republishing the same sections is unnecessary. EPA considers referral back to those sections as sufficient to provide an explanation of the information EPA considered in making its safety determination for the new rulemaking.

EPA has previously published a number of tolerance rulemakings for penthiopyrad, in which EPA concluded, based on the available information, that there is a reasonable certainty that no harm would result from aggregate exposure to penthiopyrad and established a tolerance for residues of that chemical. EPA is incorporating previously published sections from those rulemakings as described further in this rulemaking, as they remain unchanged.

Toxicological profile. For a discussion of the Toxicological Profile of penthiopyrad, see Unit III.A. of the June 6, 2019, rulemaking (84 FR 26352) (FRL–9994–08).

Toxicological points of departure/Levels of concern. For a summary of the Toxicological Points of Departure/Levels of Concern for penthiopyrad used for human risk assessment, see Unit III.B. of the June 6, 2019, rulemaking.

Exposure assessment. Much of the exposure assessment remains the same although updates have occurred to accommodate exposures from the petitioned-for tolerance. These updates are discussed in this section; for a description of the rest of the EPA approach to and assumptions for the exposure assessment, please reference Unit III.C. of the June 6, 2019, rulemaking.

EPA's dietary exposure assessments have been updated to include the additional exposure from the new use of penthiopyrad on banana and were conducted with Dietary Exposure Evaluation Model software using the Food Commodity Intake Database (DEEM–FCID) Version 4.02, which uses the 2005–2010 food consumption data from the United States Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). The assessment used the same assumptions as the June 6, 2019, final rule concerning tolerance-level residues, default processing factors for all processed commodities and 100 percent crop treated.

Drinking water exposure. The drinking water numbers have not changed since the June 6, 2019, rulemaking.

Non-occupational exposure. There are no new residential (non-occupational) exposures associated with the new proposed use. The assessment of exposures to the currently registered uses on residential sites (*e.g.,* lawns and turf) has not changed since the June 6, 2019, rulemaking.

Cumulative exposure. Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, EPA has not made a common mechanism of toxicity finding as to penthiopyrad and any other substances and penthiopyrad does not appear to produce a toxic metabolite produced by other substances. For the purposes of this action, therefore, EPA has not assumed that penthiopyrad has a common mechanism of toxicity with other substances.

Safety factor for infants and children. EPA continues to conclude that there are reliable data to support the reduction of the Food Quality Protection Act (FQPA) safety factor from 10X to 1X. See Unit III.D. of the June 6, 2019, rulemaking for a discussion of the Agency's rationale for that determination.

Aggregate risks and determination of safety. EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing dietary exposure estimates to the acute population adjusted dose (aPAD) and the chronic population adjusted dose (cPAD). Short-, intermediate-, and chronic term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate points of departure to ensure that an adequate margin of exposure (MOE) exists. For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure.

Acute dietary risks are below the Agency's level of concern of 100% of the aPAD; they are 21% of the aPAD for all infants (less than 1 year old), the population subgroup with the highest exposure estimate. Chronic dietary risks are below the Agency's level of concern of 100% of the cPAD; they are 38% of the cPAD for all infants (less than 1 year old), the population subgroup with the highest exposure estimate.

The combined short-term food, water, and residential exposures result in aggregate MOEs of 440 in adults and 220 for children 1 to <2 years old. Because EPA's level of concern for penthiopyrad is an MOE of 100 or below, these MOEs are not of concern. For more details, refer to unit III.E in the June 6, 2019, rulemaking and unit III.B of the April 7, 2021, rulemaking (86 FR 17917) (FRL–10017–27). As explained in unit III.E. in the June 6, 2019, rulemaking, EPA has concluded that the cancer risk is not of concern. Based on the risk assessments and information described above, EPA concludes there is reasonable certainty that no harm will result to the general population, or to infants and children, from aggregate exposure to penthiopyrad residues. More detailed information can be found at *https://www.regulations.gov* in the document titled ''Penthiopyrad. Human Health Risk Assessment for the Proposed Registrations on Bananas and Greenhouse-Grown Lettuce'' in docket ID number EPA–HQ–OPP–2021–0658.

IV. Other Considerations

A. Analytical Enforcement Methodology

For a discussion of the available analytical enforcement method, see Unit IV.A. of the June 6, 2019, rulemaking.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4).

The Codex has not established an MRL for residues of penthiopyrad in or on banana.

C. Revisions to Petitioned-For Tolerances

EPA is establishing the tolerance for residues of penthiopyrad in or on bananas at 3 ppm instead of the petitioner-proposed 2 ppm. The 2 ppm value is likely the result of the Day 0 residues input into the Organization for Economic Cooperation and Development (OECD) tolerance calculator. However, in the residue decline trial, the residue on Day 0 (0.98 ppm) increased on Day 1 (1.11 ppm) before declining for the remainder of the study. As the Day 1 harvest is allowable according to the proposed application pattern, it is EPA's practice to use that value instead of the Day 0 value. This input results in a tolerance of 3 ppm according to the OECD tolerance calculation procedures.

V. Conclusion

Therefore, a tolerance is established for residues of penthiopyrad, including its metabolites and degradates, in or on banana at 3 ppm.

VI. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), or to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or Tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or Tribal Governments, on the relationship between the National Government and the States or Tribal Governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian Tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides, and pests, Reporting and recordkeeping requirements.

Dated: February 14, 2023.

Daniel Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, for the reasons stated in the preamble, EPA amends 40 CFR chapter I as follows:

PART 180—TOLERANCES AND EXEMPTIONS FOR PESTICIDE CHEMICAL RESIDUES IN FOOD

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.658, amend table 1 to paragraph (a)(1) by adding, in alphabetical order, an entry for ''Banana'' to read as follows:

§ 180.658 Penthiopyrad; tolerances for residues.

(a) * * *

(1) * * *

TABLE 1 TO PARAGRAPH (a)(1)

Commodity	Parts per million
* * * * *	
Banana	3
* * * * *	

* * * * *

[FR Doc. 2023–03399 Filed 2–16–23; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 88, No. 33
Friday, February 17, 2023

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. FDA–2023–N–0437]

Filing of Color Additive Petition From Center for Science in the Public Interest, et al.; Request To Revoke Color Additive Listing for Use of FD&C Red No. 3 in Food and Ingested Drugs

AGENCY: Food and Drug Administration, HHS.

ACTION: Petition for rulemaking.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that we have filed a petition, submitted by Center for Science in the Public Interest, et al., proposing that FDA repeal the color additive regulations providing for the use of FD&C Red No. 3 in foods (including dietary supplements) and in ingested drugs.

DATES: The color additive petition was filed on November 15, 2022. Either electronic or written comments must be submitted by April 18, 2023.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 18, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

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 comment, 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 instructions 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 objection, 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–2023–N–0437 for ''Filing of Color Additive Petition from Center for Science in the Public Interest, et al.; Request to Revoke Color Additive Listing for Use of FD&C Red No. 3 in Food and Ingested Drugs.'' Received comments, those filed in a timely manner (see **DATES**), 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 comment 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.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts, and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Shayla West-Barnette, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1262.

SUPPLEMENTARY INFORMATION:

I. Background

Under section 721(d)(1) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 379e(d)(1)), we are giving notice that we have filed a color additive petition (CAP 3C0323), submitted by Center for Science in the Public Interest, Breast Cancer Prevention Partners, Center for Environmental Health, Center for Food Safety, Chef Ann Foundation, Children's Advocacy Institute, Consumer Federation of America, Consumer Reports, Defend Our Health, Environmental Defense Fund, Environmental Working Group,

Feingold Association of the United States, Food & Water Watch, Healthy Babies Bright Futures, Life Time Foundation, Momsrising, Prevention Institute, Public Citizen, Public Health Institute, Public Interest Research Group, Real Food for Kids, Lisa Y. Lefferts, Linda S. Birnbaum, and Philip J. Landrigan, c/o Jensen Jose, 1250 I Street NW, Suite 500, Washington, DC 20005. The petition proposes that we repeal the color additive regulations for FD&C Red No. 3 in § 74.303 (21 CFR 74.303), which permits the use of FD&C Red No. 3 in foods (including dietary supplements), and § 74.1303 (21 CFR 74.1303), which permits the use of FD&C Red No. 3 in ingested drugs.

II. Repeal of §§ 74.303 and 74.1303

In accordance with the procedure in section 721(d) of the FD&C Act for issuance, amendment, or repeal of regulations, the petition asks us to repeal §§ 74.303 and 74.1303 to no longer provide for the use of FD&C Red No. 3 in foods (including dietary supplements) and in ingested drugs, respectively. Specifically, the petitioners state that experimental data show that FD&C Red No. 3 induces cancer when fed to rats and that FDA concluded such in 1990. The petitioners also state that subsequent studies and reviews have reinforced FDA's conclusion. The petitioners cite, as evidence, data and information from the National Toxicology Program, the Joint Expert Committee on Food Additives, and the European Commission's Scientific Committee for Food (which was later replaced by the European Food Safety Authority). The petitioners also state that there is widespread exposure to U.S. consumers, particularly children, and that very young children have the highest exposures to the color additive. The petitioners cite the Delaney Clause (section 721(b)(5)(B) of the FD&C Act), which provides that no color additive shall be deemed safe for any use which will or may result in ingestion of all or part of such additive, if the additive is found by the Secretary of Health and Human Services (Secretary) to induce cancer when ingested by man or animal, or if it is found by the Secretary, after tests which are appropriate for the evaluation of the safety of additives for use in food, to induce cancer in man or animal. The petitioners state that the Delaney Clause obligates FDA to repeal the regulations for FD&C Red No. 3.

We invite comments, additional scientific data, and other information related to the issues raised by this petition. If we determine that the available data justify repealing §§ 74.303 and 74.1303 to no longer provide for the use of FD&C Red No. 3, we will publish our decision in the **Federal Register** in accordance with 21 CFR 71.20.

The petitioners have claimed that this action is categorically excluded under 21 CFR 25.32(m) because this action would prohibit or otherwise restrict the use of a substance in food packaging. In addition, the petitioners have stated that, to their knowledge, no extraordinary circumstances exist. If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: February 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–03391 Filed 2–16–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0081]

RIN 1625–AA00

Safety Zone: Tall Ships America; Tampa Bay, St Petersburg, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is establishing a temporary moving safety zone on the waters of Tampa Bay, around a Tall Ships America Parade of sail in St Petersburg, Florida. The safety zone will extend 100 yards from the beam of the ships as they transit from the muster point in approximate position 27°43.54′ N 082°36.38′ W to the moorings at Port St Pete, St Petersburg, FL in approximate position 27°45.34′ N 082°37.15′ W. The safety Zone is necessary to protect the public, wooden sailing vessels and their crews from the hazards associated with transiting the area. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port St. Petersburg or a designated representative.We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before March 6, 2023.

ADDRESSES: You may submit comments identified by docket number USCG–2023–0081 using the Federal Decision Making Portal at *https://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Marine Science Technician First Class Regina L Cuevas, Sector St. Petersburg Prevention Department, Coast Guard; telephone (813) 228–2191, email *Regina.L.Cuevas@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On March 30, 2023, Tall Ships America will be visiting the Port of St Pete in St Petersburg, FL. The Coast Guard is establishing a temporary moving safety zone on the waters of Tampa Bay, around the Tall Ships America Parade of sail in St Petersburg, Florida on March 30, 2023. The safety zone will extend 100 yards from the beam of the ships as they transit from the muster point in approximate position 27°43.54′ N 082°36.38′ W to the moorings at Port St Pete, St Petersburg, FL in approximate position 27°45.34′ N 082°37.15′ W. The safety Zone is necessary to protect the public, wooden sailing vessels and their crews from the hazards associated with transiting the area. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port St. Petersburg or a designated representative.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 100-yard radius of the Tall Ships America vessels. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The COTP is proposing to establish a moving safety zone from 1:30 p.m. to 5:30 p.m. on March 30, 2023. The duration of the zone is intended to ensure the safety of vessels and their crews in these navigable waters of

Tampa Bay during this event. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic would be able to safely transit around this safety zone which would impact a small designated area of Tampa Bay for the Parade route and Port St Pete which is already designated as a restricted area. Vessel traffic is normally low during this time of day, and once moored the Vesssels will not be impeading the waterway. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves an initial moving safety zone lasting 4 hours that would prohibit entry within 100 yards of a the Parade of Sail. Normally such actions are categorically excluded from further review under paragraph L[60a] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the

docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

Submitting comments. We encourage you to submit comments through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2023–0081 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

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

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

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and Recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 46 U.S.C. 70034, 70051, 70124; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 00170.1, Revision No. 01.3.

■ 2. Add § 165.T07–0081 to read as follows:

§ 165.T07–0081 Safety Zone: Tall Ships America; Tampa Bay, St Petersburg, FL.

The Coast Guard is establishing a temporary moving safety zone on the waters of Tampa Bay, around a Tall ships America Parade of sail in St Petersburg, Florida on March 30, 2023. The safety zone will extend 100 yards from the beam of the ships as they transit from the muster point in approximate position 27°43.54′ N 082°36.38′ W to the moorings at Port St Pete, St Petersburg, FL in approximate position 27°45.34′ N 082°37.15′ W. The safety Zone is necessary to protect the public, wooden sailing vessels and their crews from the hazards associated with transiting the area. Persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the safety zone unless authorized by the Captain of the Port St. Petersburg or a designated representative.

Dated: February 14, 2023.

Micheal P. Kahle,

Captain, U.S. Coast Guard, Captain of the Port Saint Petersburg.

[FR Doc. 2023–03422 Filed 2–16–23; 8:45 am]

BILLING CODE 9110–04–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Parts 201 and 205

[Docket No. 2023–1]

Ex Parte Communications

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Copyright Office is issuing a notice of proposed rulemaking to establish procedures governing the use of *ex parte* communications in informal rulemakings. The proposed rule defines *ex parte* communications, instructs the public on how to request an *ex parte* meeting with the Office, sets forth the responsibilities of parties after an *ex parte* meeting, and identifies impermissible *ex parte* communications.

DATES: Comments on the proposed rule must be made in writing and received by the U.S. Copyright Office no later than 11:59 p.m. Eastern Time on April 3, 2023.

ADDRESSES: For reasons of Government efficiency, the Copyright Office is using the *regulations.gov* system for the submission and posting of public comments in this proceeding. All comments are therefore to be submitted electronically through *regulations.gov.* Specific instructions for submitting comments are available on the Copyright Office website at *https://copyright.gov/rulemaking/ex-parte-communications.* If electronic submission of comments is not feasible due to lack of access to a computer or the internet, please contact the Office using the contact information below for special instructions.

FOR FURTHER INFORMATION CONTACT: Rhea Efthimiadis, Assistant to the General Counsel, by email at *meft@copyright.gov,* or by telephone at 202–707–8350 or Melinda Kern, Attorney-Advisor, by email at *mkern@copyright.gov,* or by telephone at 202–707–8350.

SUPPLEMENTARY INFORMATION:

I. Background

Statutory Background

The Copyright Office conducts rulemakings consistent with the Administrative Procedure Act (''APA'') rules governing informal rulemakings.[1] An informal rulemaking includes a notice-and-comment period, which gives the public an opportunity to respond to an agency's proposed regulatory action. Unlike formal rulemakings, informal rulemakings do not require on-the-record hearings or trial-type procedures,[2] such as the presentation of evidence.

While the APA sets forth certain requirements for informal rulemakings,[3] it does not prohibit agencies from engaging in what are commonly referred to as ''*ex parte* communications.'' [4] The term ''*ex parte*'' is a bit of a misnomer in this context. In other legal contexts, the term means ''[o]n or from one party only, usually without notice to or argument from the adverse party,'' [5] and usually refers to communications with a court by one party. In the rulemaking context, an *ex parte* communication is a ''[w]ritten or oral communication [] regarding the substance of an

[1] *See* 5 U.S.C. 553; 17 U.S.C. 701(e).

[2] *See* 5 U.S.C. 556, 557 (discussing procedural requirements in formal rulemakings).

[3] *Id.* at 553.

[4] *See Home Box Off., Inc.* v. *FCC,* 567 F.2d 9, 57 (D.C. Cir. 1977) (finding *ex parte* communications in informal rulemakings ''completely appropriate'' when they ''do not frustrate judicial review or raise serious questions of fairness''); *Vermont Yankee Nuclear Power Corp.* v. *Nat. Res. Def. Council, Inc.,* 435 U.S. 519, 524 (1978) (noting that under the APA, ''[a]gencies are free to grant additional procedural rights in the exercise of their discretion''); *see also Sierra Club* v. *Costle,* 657 F.2d 298, 401–02 (D.C. Cir. 1981) (noting that Congress declined to extend the *ex parte* prohibition applicable to formal rulemakings to informal rulemakings despite being urged to do so); *cf.* 5 U.S.C. 557(d) (prohibiting *ex parte* communications in formal rulemaking proceedings).

[5] Black's Law Dictionary (11th ed. 2019).

anticipated or ongoing rulemaking between . . . agency personnel and interested persons; and that are not placed in the rulemaking docket at the time they occur.'' [6] As informal rulemakings are not adversarial proceedings, there is normally no ''adverse party.''

Office's Prior Handling of Ex Parte Communications in Rulemakings

In the past, the Office has engaged in a limited number of *ex parte* communications with interested parties to discuss targeted issues related to the merits of a rulemaking. For example, in response to stakeholder requests, the Office provided interested parties the opportunity to engage in *ex parte* communications during the seventh and eighth triennial section 1201 rulemaking.[7] It offered interested parties this opportunity in certain other rulemakings, including those pertaining to royalty reporting practices under section 111 and those implementing the Orrin G. Hatch-Bob Goodlatte Music Modernization Act and the Copyright Alternative in Small-Claims Enforcement (''CASE'') Act of 2020.[8]

In each of these circumstances, the Office communicated the availability of *ex parte* meetings in a **Federal Register** notice and posted more detailed instructions regarding the *ex parte* meeting process on the associated rulemaking's web page.[9] Generally, the Office required parties to submit a request identifying the names of all proposed attendees and the party or parties on whose behalf each attendee is appearing, and following the meeting, to generate a written summary of the discussion for the rulemaking record.[10]

Administrative Conference of the United States Recommendations

Although not every agency has a regulation governing *ex parte* communications, the Administrative Conference of the United States (''ACUS''), an independent federal agency ''whose statutory mission is to identify ways to improve the procedures by which federal agencies protect the public interest and determine the rights, privileges, and obligations of private persons,'' [11] recommends that each agency that conducts informal rulemakings should adopt such a policy.[12] ACUS also gives direction on ''how agencies can best manage ex parte communications in the context of informal rulemaking proceedings,'' including how agency personnel should respond to requests to engage in *ex parte* communications; what qualifies as an *ex parte* communication (*i.e.,* substantive vs. non-substantive inquiries); and the appropriate procedures to ensure that *ex parte* communications and their corresponding letters are made available to the public as part of the rulemaking docket.[13] Further, ACUS has made suggestions on the following subjects: (i) the manner in which *ex parte* communications between an agency and informal rulemaking parties should be disclosed on the rulemaking docket; (ii) the requirements that *ex parte* meeting parties file a letter with the Office that summarizes the meetings; and (iii) how *ex parte* communications provided post-deadline or containing new documentary materials are treated by the agency.[14]

II. Proposed Rule

The Office is proposing new regulations to memorialize its practices regarding *ex parte* communications in informal rulemakings, as well as additional guidance for parties seeking to engage in such communications. It has used the ACUS's recommendations and other agencies' comparable rules [15] as guidance in proposing its regulatory text.

In proposing this rule, the Office recognizes that *ex parte* communications benefit the agency by informing it of stakeholders' positions while fostering a complete and transparent rulemaking record. *Ex parte* communications may help provide a complete regulatory record in several ways. First, the communications may ''facilitate a more candid and potentially interactive dialogue of key issues,'' such as questions about facts or law.[16] Parties may also wish to share sensitive information with the Office through an *ex parte* meeting rather than a public comment, which ''may be an indispensable avenue . . . to obtain the information necessary to develop sound, workable policies.'' [17] Additionally, when rulemaking parties submit written comments, questions may arise that require further correspondence between the submitter and the Office. As the Office has previously stated, *ex parte* communications ''are intended to provide an opportunity for participants to clarify evidence and/or arguments

[6] 79 FR 35988, 35993 (June 25, 2014) (reflecting Administrative Conference of the United States Recommendation 2014–4, ''Ex Parte'' Communications in Informal Rulemaking).

[7] 82 FR 49550, 49563 (Oct. 26, 2017); U.S. Copyright Office, *Section 1201 Rulemaking: Seventh Triennial Proceeding to Determine Exceptions to the Prohibition on Circumvention, Recommendation of the Acting Register of Copyrights* 20–21 (2018); *see* U.S. Copyright Office, *Section 1201 of Title 17* 150–51 (2017) (documenting stakeholder desire for informal communications with the Office); U.S. Copyright Office, *Ex Parte Communications, https://www.copyright.gov/1201/2021/ex-parte-communications.html* (last visited Feb. 9, 2023) (*ex parte* guidelines for the Eighth Triennial Section 1201 Proceeding, 2021).

[8] U.S. Copyright Office, *Ex Parte Communications, https://www.copyright.gov/music-modernization/related-rulemakings.html* (last visited Feb. 9, 2023) (identifying *ex parte* guidelines for certain MMA rulemakings and reflecting over eighty *ex parte* letter summaries); U.S. Copyright Office, *Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2020 Rulemakings, https://www.copyright.gov/about/small-claims/related-rulemakings.html* (last visited Feb. 9, 2023) (identifying *ex parte* guidelines for CASE Act rulemakings).

[9] *See, e.g.,* 86 FR 16156, 16158 (Mar. 26, 2021) (identifying guidelines for *ex parte* communication pertaining to CASE Act rulemakings); 85 FR 65293, 65310 (Oct. 15, 2020) (identifying guidelines for *ex parte* communications in the Office's Eighth Triennial Section 1201 Proceeding, 2021); 84 FR 49966, 49968 (Sept. 24, 2019) (identifying guidelines for *ex parte* communication for implementing the MMA's blanket license); 83 FR 65747, 65753–54 (Dec. 21, 2018) (identifying guidelines for *ex parte* communications in MLC and DLC designation proceeding); 82 FR 58153, 58154 (Dec. 11, 2017) (identifying guidelines for *ex parte* communication pertaining to proposed amendments to royalty reporting practices under section 111); *see also* U.S. Copyright Office, *Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2020 Rulemakings, https://www.copyright.gov/about/small-claims/related-rulemakings.html* (last visited Feb. 9, 2023); U.S. Copyright Office, *Ex Parte Communications, https://www.copyright.gov/1201/2021/ex-parte-communications.html* (last visited Feb. 9, 2023) (identifying *ex parte* guidelines for the Eighth Triennial Section 1201 Proceeding, 2021); U.S. Copyright Office, *Ex Parte Communications, https://www.copyright.gov/rulemaking/mma-implementation/ex-parte-communications.html* (last visited Feb. 9, 2023) (identifying *ex parte* guidelines for the MMA's blanket license implementation); U.S. Copyright Office, *Ex Parte Communications, https://www.copyright.gov/rulemaking/mma-designations/ex-parte-communications.html* (last visited Feb. 9, 2023) (identifying *ex parte* guidelines for MLC and DLC designation rulemaking); U.S. Copyright Office, *Ex Parte Communications, https://www.copyright.gov/rulemaking/section111/ex-parte-communications.html* (last visited Feb. 9, 2023) (identifying *ex parte* guidelines for proposed amendments to regulations governing cable, satellite, and DART license reporting practices).

[10] On occasion, the Office proactively offered rulemaking participants opportunities to engage in *ex parte* meetings. For example, following the Office's ''Statutory Cable, Satellite, and DART License Reporting Practices'' notice of proposed rulemaking, 82 FR 56926 (Dec. 1, 2017), the Office offered to meet with earlier rulemaking participants to update the rulemaking record.

[11] *About ACUS,* Administrative Conference of the United States, *https://www.acus.gov/about-acus* (last visited Feb. 9, 2023).

[12] 79 FR 35988, 35994.

[13] *Id.* ACUS previously discussed the benefits of *ex parte* communications and opined that agencies should not generally prohibit such communications. 42 FR 54251, 54253 (Oct. 5, 1977).

[14] 79 FR 35988, 35995.

[15] *See, e.g.,* 83 FR 9222 (Mar. 5, 2018) (Surface Transportation Board final rule); 76 FR 24376 (May 2, 2011) (FCC's final rule); 74 FR 52795 (Oct. 14, 2009) (Department of Energy's notice of guidance on *ex parte* communications).

[16] 79 FR 35988, 35994.

[17] *Id.*

made in prior written submissions and to respond to questions from the Office on those matters.'' [18] These communications allow the Office to supplement, but do not substitute for, the pre-existing regulatory record and help ensure it has all the information necessary to build out a complete record.

The purpose of this rule is to make information about the Office's *ex parte* communication process broadly available to ensure procedural fairness to the public and rulemaking parties. Rather than following the past practice of providing formal notice to request *ex parte* communications in specific rulemakings, the proposed rule will make these communications available more generally across its rulemakings. This will allow the public and rulemaking parties more opportunities to inform the Office on complex legal, factual, or technical issues that may arise during a rulemaking proceeding. The rule also contemplates that *ex parte* communications will aid in efficient rulemaking proceedings by allowing rulemaking parties to respond to late-breaking issues. For these reasons, the Office is proposing and inviting public comments on the following rule.

Applicability

The proposed rule would apply to both written and oral communications between the Office and rulemaking parties that deal with substantive issues in ongoing rulemakings. Allowing both written and oral communications ensures that all methods of communication are covered to provide the greatest level of access by rulemaking parties.

The proposed rule, however, does not apply to communications relating to non-substantive issues (*e.g.,* questions about the Copyright Office's procedures or a rulemaking's status). Non-substantive issues would not normally influence an agency's decision-making, inhibit transparency, or be unfair to other interested parties. If, however, a communication contains both non-substantive and substantive issues, the Office will require the parties to submit a summary of the substantive issues discussed to be included as part of the rulemaking record.

The proposed rule does not apply to communications to the Office on substantive issues prior to the publication of a **Federal Register** notice regarding the same issues. Such communications may be beneficial in helping the Office ''gather essential information, craft better regulatory proposals, and promote consensus building among interested persons.'' [19] The rule also does not apply to communications made by Congress, Federal departments and agencies, the Judiciary, or foreign, state, or local governments.[20] The Office has occasionally received such communications in rulemakings, which have been included in the rulemaking record, even if submitted after the written comment period has closed.[21] Finally, the proposed rule does not apply to communications required by law.

The Office will not require comments made on its website or social media pages (*e.g.,* the Office's blog, Twitter page, etc.) to comply with this proposed rule. While such communications could arguably fall within the proposed definition of ''*ex parte* communication,'' the Office's regulatory team does not monitor these pages for substantive issues related to ongoing rulemakings. Moreover, these comments will not be considered as part of the rulemaking record. Parties who wish to submit comments into the rulemaking record must comply with instructions included in a proposed rule's **Federal Register** notice.

Meeting Requests, Format, and Written Summary

The proposed rule sets forth the requirements for parties who wish to request an *ex parte* meeting, for how those meetings will be conducted, and the timing and substance of the written summary that must be submitted after the meeting for the rulemaking record. Under the rule, all requests for *ex parte* meetings normally must be submitted by email. The Office understands, however, that all parties may not have the same resources or ability to file a request by email and allows them to contact the Office for special instructions if requesting a meeting by email is not feasible.

All meeting requests must be sent to either the Office employee(s) whose contact information is listed in the **Federal Register** for the document that the party wishes to discuss or to the Assistant to the Office's General Counsel. The Office believes that having requests sent to these specified individual(s) will dissuade rulemaking parties from trying to engage in unauthorized *ex parte* communications through other Office employees. Moreover, an *ex parte* meeting request must identify the names of all proposed attendees, the name of the party on whose behalf each attendee is appearing, and the rulemaking that will be discussed in the meeting. Providing this information helps the Office understand what interests and arguments may be discussed and enables it to efficiently arrange meeting dates and times.

The proposed rule also provides information on permissible formats for *ex parte* meetings. To ensure the greatest possible public access, the proposed rule allows meetings to be held in-person, telephonically, virtually (*e.g.,* using Zoom, Microsoft Teams, or similar online platforms), or through some hybrid combination of these formats. Allowing participation through various formats provides all rulemaking parties with the same opportunity to engage in discussions with the Office and furthers the Office's goal of providing a fair rulemaking process. While parties' preferences regarding the format will be considered, the Office will make the final decision regarding the appropriate format for each *ex parte* meeting.[22]

The proposed rule also makes clear that joint *ex parte* meetings are

[18] U.S. Copyright Office, *Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2020 Rulemakings: Ex Parte Communications, https://www.copyright.gov/about/small-claims/related-rulemakings.html* (last visited Feb. 9, 2023); *see also, e.g.,* U.S. Copyright Office, *Ex Parte Communications, https://www.copyright.gov/1201/2021/ex-parte-communications.html* (last visited Feb. 9, 2023) (providing *ex parte* communications' guidelines for the Eighth Triennial Section 1201 Proceeding, 2021); U.S. Copyright Office, *Ex Parte Communications, https://www.copyright.gov/rulemaking/mma-designations/ex-parte-communications.html* (last visited Feb. 9, 2023) (identifying *ex parte* guidelines for MLC and DLC designation rulemaking).

[19] 79 FR 35988, 35994 (reflecting ACUS recommendation and citing Memorandum on Regulatory Reform, 31 Weekly Comp. Pres. Doc. 363 (Mar. 4, 1995), *https://www.govinfo.gov/content/pkg/WCPD-1995-03-13/pdf/WCPD-1995-03-13-Pg363.pdf* (directing agencies to ''review all . . . administrative *ex parte* rules and eliminate any that restrict communication prior to the publication of a proposed rule—other than rules requiring the simple disclosure of the time, place, purpose, and participants of meetings'')).

[20] The Office notes that the ACUS's recommendation did ''does not address unique issues that may arise in connection with communications between agencies and members of Congress, foreign governments, or state and local governments.'' *Id.*

[21] *See, e.g.,* U.S. Copyright Office, *Section 1201 Rulemaking: Sixth Triennial Proceeding to Determine Exemptions to the Prohibition on Circumvention, Recommendation of the Register of Copyrights* 23 (2015), *https://cdn.loc.gov/copyright/1201/2015/registers-recommendation.pdf* (reflecting inclusion of letter submitted by the California Air Resources Board into the rulemaking record).

[22] For example, the Office may pause or restrict the availability of in-person meetings due to circumstances that effect public health and safety (*e.g.,* the COVID–19 pandemic) or based on the availability of Office employees.

permitted. Rulemaking parties with similar or differing interests may appear together in meetings with the Office. This can help make the rulemaking process more efficient and promote more open dialogue on unresolved issues, for example by providing meeting parties with an opportunity to reach an agreement or consensus on an outstanding issue.

To ensure impartiality to all rulemaking parties, the proposed rule limits what information may be presented in *ex parte* meetings. Similar to the Office's previous practices and guidelines on *ex parte* communications,[23] the submission of new documentary materials that are outside of a rulemaking record is not allowed. The Office will not consider or accept these materials without separate prior written approval.

The proposed rule requires that parties participating in *ex parte* meetings provide the Office with a written summary of the meeting. The written summary must be submitted by email to either the Office employee(s) whose contact information is listed in the corresponding **Federal Register** document or the Assistant to the General Counsel. If email submission is not feasible, the parties may contact the Office for special instructions regarding the submission process. To ensure prompt and effective disclosure of *ex parte* meetings, the proposed rule requires the summaries to be submitted within two business days of the meeting (unless otherwise directed or agreed to by the Copyright Office), to contain the same information that is required for the meeting request, and to summarize the arguments made by the party participating in the *ex parte* communication and the substantive views it expressed in the meeting.

To provide sufficient transparency to the other rulemaking parties and the public, the summary must include enough detail that a non-participating party would understand the substance of the meeting and the issues raised. The Office will not accept or consider summaries that merely list the subject(s) discussed or provide a one- or two-sentence description. If a summary does not comply with these requirements, or contains inaccuracies (*e.g.,* missing attendees, information omitted or characterized incorrectly), the Office will require a corrected letter, which must be submitted within two business days of the Office's notification. If a party does not provide a corrected letter, the Office may make a notation on the rulemaking's designated web page noting or describing the deficiency. The Office also may, in its discretion, decline to consider the non-compliant letter as part of the rulemaking record.

The proposed rule allows multiple parties to submit a joint summary, if desired. It is the responsibility of the party submitting the summary to ensure that all other meeting parties agree to its viewpoints and contents. If the multiple parties represent conflicting viewpoints, the Office will require each party to submit a separate summary.

These safeguards will bolster the rulemaking process's transparency and offer fairness to rulemaking parties. The summaries not only provide the public with information regarding the parties engaging in *ex parte* meetings and the topics discussed, but also provide an adequate, written record of the meetings that the Office may rely on in its decision-making process. Additionally, the meeting summaries should impose a minimal burden on parties, as these procedures have been used without difficulty in past rulemakings.

The proposed rule also permits the Office to impose deadlines on *ex parte* communications in any particular rulemaking. These deadlines may be separate from deadlines to submit written comments. *Ex parte* communications, including submission of additional written materials or *ex parte* meeting requests, made after an imposed deadline normally will be denied by the Office. The Office understands, however, that imposing such restrictions may prevent it from establishing a comprehensive rulemaking record. For this reason, the rule contains limited exceptions, including in circumstances where additional comments are requested by the Office, the comments consist of non-substantive visual aids, or inclusion of the comments in the rulemaking record would be in the interests of justice or fairness (*e.g.,* allowing post-deadline comments to respond to a significant, new, and relevant legal precedent).

Impermissible Communications and Their Effect

The proposed rule sets forth a process to address attempts to circumvent the *ex parte* communications rules. If a party attempts to engage in an *ex parte* communication to an Office employee outside of the process described above, the employee must take certain steps. First, they must attempt to prevent the communication. If the employee is unable to prevent the communication, they must advise the person making the communication that it will not be considered part of the rulemaking record. Additionally, they must deliver a copy of the communication, or if it was delivered orally, draft and deliver a summary of the communication to the Office's General Counsel.

The consequence for parties that engage, or attempt to engage, in an impermissible *ex parte* communication will be that the communication will not be considered as part of the rulemaking record. While other agencies have chosen to impose harsher sanctions or penalties on parties that engage in impermissible *ex parte* communications,[24] at this time the

[23] *See, e.g.,* U.S. Copyright Office, *Copyright Alternative in Small-Claims Enforcement (CASE) Act of 2020 Rulemakings, https://www.copyright.gov/about/small-claims/related-rulemakings.html* (last visited Feb. 9, 2023) (*ex parte* guidelines for CASE Act rulemakings); U.S. Copyright Office, *Ex Parte Communications, https://www.copyright.gov/1201/2021/ex-parte-communications.html* (last visited Feb. 9, 2023) (*ex parte* guidelines for the Eighth Triennial Section 1201 Proceeding, 2021); U.S. Copyright Office, *Ex Parte Communications, https://www.copyright.gov/rulemaking/mma-implementation/ex-parte-communications.html* (last visited Feb. 9, 2023) (*ex parte* guidelines for the MMA's blanket license implementation); U.S. Copyright Office, *Ex Parte Communications, https://www.copyright.gov/rulemaking/mma-designations/ex-parte-communications.html* (last visited Feb. 9, 2023) (*ex parte* guidelines for MLC and DLC designation rulemaking); U.S. Copyright Office, *Ex Parte Communications, https://www.copyright.gov/rulemaking/section111/ex-parte-communications.html* (last visited Feb. 9, 2023) (*ex parte* guidelines for proposed amendments to regulations governing cable, satellite, and DART license reporting practices).

[24] *See, e.g.,* 12 CFR 1081.110(d) (requiring a party that engages in impermissible *ex parte* communication in adjudicatory proceedings before the Consumer Financial Protection Bureau ''to show cause why the party's claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation'' and allowing Director or hearing officer ''to the extent not prohibited by law, [to] censure, suspend, or revoke the privilege to practice before the Bureau of any person who makes, or solicits the making of, an unauthorized ex parte communication''); 16 CFR 1025.68(g) (subjecting Consumer Product Safety Commission rulemaking participants to ''any appropriate sanction or sanctions, including but not limited to, exclusion from the proceedings and an adverse ruling on the issue which is the subject of the prohibited communication''); 24 CFR 180.215(c) (identifying similar sanctions found within the Department of Housing and Urban Development hearings on civil rights matters); 40 CFR 304.25(d) (requiring that a party who engages in impermissible *ex parte* communication before the Environmental Protection Agency for certain arbitration procedures to ''show cause why that party's arguments or claim should not be denied, disregarded, or otherwise adversely affected on account of such violation''); 47 CFR 1.1216(d) (identifying that parties that violate the Federal Communications Commission *ex parte* communication guidelines ''may be subject to admonishment, monetary forfeiture, or to having his or her claim or interest in the proceeding dismissed, denied, disregarded, or otherwise adversely affected,'' but that ''such alternative or additional sanctions as may be appropriate also may be imposed''); 49 CFR 1102.2(f) (permitting

Continued

Office believes that its proposed rule provides enough of a deterrent and further penalties are not necessary. The Office, however, is open to considering comments on what types of sanctions, if any, should be deemed appropriate with respect to different types of *ex parte* violations and the agency's authority to impose them.

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 205

Copyright, Legal processes.

Proposed Regulations

For the reasons set forth in the preamble, the U.S. Copyright Office proposes amending 37 CFR parts 201 and 205 as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 2. Amend § 201.1 by adding paragraph (d) to read as follows:

§ 201.1 Communication with the Copyright Office.

* * * * *

(d) *Requests for an ex parte meeting.* The rules governing *ex parte* communications in informal rulemakings, including methods to request *ex parte* meetings, are found in 37 CFR 205.24.

* * * * *

PART 205—LEGAL PROCESSES

■ 3. The authority citation for part 205 continues to read as follows:

Authority: 17 U.S.C. 702.

■ 4. Add subpart D, consisting of § 205.24, to read as follows:

Subpart D—*Ex Parte* Communications

Sec.

205.24 *Ex Parte* communications in informal rulemakings.

§ 205.24 *Ex Parte* communications in informal rulemakings.

(a) *General.* The rules governing *ex parte* communications in informal rulemakings are intended to provide an opportunity for rulemaking parties to clarify evidence or arguments made in prior written submissions, to respond to assertions or requests made by other parties, or to respond to questions from the Copyright Office on any of those matters.

(b) *Applicability.* (1) An *ex parte* communication is a written or oral communication regarding the substance of an ongoing rulemaking between a Copyright Office employee and a member of the public that must be included in the rulemaking record, as described in this section.

(2) An *ex parte* communication does not include the following:

(i) Communications made prior to the publication of a proposed rule or non-substantive inquiries, such as those regarding the status of a rulemaking or the Copyright Office's procedures;

(ii) Communications made by members of Congress, Federal departments and agencies, the Judiciary, foreign governments, or state and local governments; or

(iii) Communications required by law.

(3) To the extent that communications made on Copyright Office web pages, including social media pages, would be considered *ex parte* communications under paragraph (b)(1) of this section, such communications are not subject to the rules described in this section and will not be considered as part of the rulemaking record.

(c) *Process.* (1) *Submitting an ex parte meeting request.*

(i) A party may request an in-person, telephonic, virtual, or hybrid *ex parte* meeting to discuss aspects of a notification of inquiry, notice of public hearing, proposed rule, or final rule by submitting a written request to either—

(A) The Copyright Office employee listed as the contact for further information in the **Federal Register** for the notification of inquiry, notice of public hearing, proposed rule, or final rule that the party wishes to discuss; or

(B) The Copyright Office's Assistant to the General Counsel. The current contact information for this employee can be obtained by contacting the Copyright Office.

(ii) The Copyright Office permits *ex parte* meetings in informal rulemakings at its discretion. When *ex parte* meetings are permitted, the Office will determine the most appropriate format (*e.g.,* in-person, telephonic, virtual, or hybrid) for each meeting, but will consider the requesting party's preferences in making that determination.

(iii) The request should be submitted by email. If email submission of an *ex parte* meeting request is not feasible, a party may contact the Copyright Office for special instructions.

(2) *Ex parte meeting request content.* An *ex parte* meeting request must identify the following information:

(i) The names of all proposed attendees;

(ii) The party or parties on whose behalf each attendee is appearing; and

(iii) The rulemaking that will be discussed.

(3) *Ex parte meeting summary.*

(i)(A) Unless otherwise directed by the Copyright Office, within two business days after an *ex parte* meeting, attendees must email the Copyright Office employee identified in paragraph (c)(1)(i)(A) or (B) of this section a letter detailing the information identified in paragraph (c)(2) of this section and summarizing the meeting's discussion. The letter must summarize the substance of the views expressed and arguments made at the meeting in such a way that a non-participating party would understand the scope of issues discussed. Merely listing the subjects discussed or providing a short description will not be sufficient. If email submission of the letter is not feasible, an attendee may contact the Copyright Office for special instructions.

(B) Meeting attendees representing different groups may submit a joint summary letter, but if the groups represent conflicting viewpoints, the groups must submit separate summary letters.

(C) If a party's *ex parte* meeting summary letter does not comply with paragraph (c)(3)(i) of this section or contains inaccuracies, the Copyright Office shall notify the *ex parte* meeting attendee and request a corrected letter. Unless otherwise directed by the Copyright Office, the attendee must submit the corrected letter within two business days of receiving such notification from the Office.

(D) If the *ex parte* meeting attendee does not provide a corrected letter under paragraph (c)(3)(i)(C) of this section, the Copyright Office may add a notation on its website noting or describing the deficiency. The Copyright Office may also, in its discretion, decline to consider the noncompliant letter as part of the rulemaking record.

(d) *Publication of ex parte communications. Ex parte* meeting letters and comments will be made publicly available on the Copyright Office's website.

(e) *Impermissible communications.* (1) *General; attempts to circumvent the ex parte communication process.* If a party

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Surface Transportation Board to ''censure, suspend, or revoke the privilege of practicing before the agency of any person who knowingly and willfully engages in or solicits prohibited *ex parte* communication.''); 82 FR 18687, 18690 (Apr. 21, 2017) (''Persons who fail to adhere to this policy [regarding *ex parte* presentations in rulemaking proceedings before Consumer Financial Protection Bureau] are subject to such sanctions as may be appropriate.'').

attempts to make an *ex parte* communication outside of the process described in paragraph (c) of this section to a Copyright Office employee, the employee shall attempt to prevent the communication. If unsuccessful in preventing the communication, the employee shall advise the person making the communication that it will not be considered by the Copyright Office as a part of the rulemaking record and shall deliver either a copy of the communication or, if the communication was made orally, a summary of the communication to the Copyright Office's General Counsel and Associate Register of Copyrights.

(2) *Other impermissible communications.*

(i) *Post-deadline communications.* The Copyright Office may impose a deadline to make *ex parte* meeting requests or to submit written comments for a rulemaking. Parties normally may not make requests after that deadline has passed, unless the deadline is removed by the Copyright Office or until after a final rule is published in the **Federal Register** for that rulemaking.

(ii) *New documentary material.*

(A) The Copyright Office generally will not consider or accept new documentary materials once the rulemaking record has closed.

(B) The restriction in this paragraph does not apply to any Copyright Office requests, *e.g.,* requests for supporting legal authority or additional documentary evidence.

(C) The restriction in this paragraph does not apply to non-substantive visual aids used in an *ex parte* meeting that are not otherwise submitted by a party as part of the rulemaking record. The Copyright Office, in its discretion, may include a copy of the visual aid in the rulemaking record.

(f) *Effect of impermissible ex parte communication.* No prohibited *ex parte* communication shall be considered as part of the rulemaking record, unless it has been introduced into the rulemaking record through a permitted method. In the interests of justice or fairness, the Copyright Office may waive this restriction.

Dated: February 14, 2023.

Suzanne Wilson,

General Counsel and Associate Register of Copyrights.

[FR Doc. 2023–03392 Filed 2–16–23; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2021–0525; FRL–10583–01–Region 6]

Air Plan Approval; Texas; Oil and Natural Gas Reasonably Available Control Technology in the Dallas-Fort Worth and Houston-Galveston-Brazoria Ozone Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve the July 20, 2021 revisions to the Texas State Implementation Plan (SIP) concerning Reasonably Available Control Technology (RACT) requirements covered by the 2016 Oil and Natural Gas Control Techniques Guidelines (CTG or CTGs) for Dallas-Fort Worth (DFW) and the Houston-Galveston-Brazoria (HGB) nonattainment areas (NAAs) for the 2008 8-hour ozone National Air Quality Ambient Air Quality Standards (NAAQS). The DFW area consists of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise Counties. The HGB area consists of Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller Counties. These areas were both classified as Serious nonattainment for the 2008 ozone NAAQS on August 23, 2019. These revisions create new RACT rules for oil and gas production and natural gas processing in the DFW and HGB NAAs and make non-substantive changes to reflect the rule applicability for the types of equipment currently required to comply with existing rule requirements but that would be subject to the new requirements upon the compliance date.

DATES: Written comments must be received on or before March 20, 2023.

ADDRESSES: Submit your comments, identified by Docket No. EPA–R06–OAR–2021–0525 at *https://www.regulations.gov* or via email to *Ahuja.Anupa@epa.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact Anupa Ahuja, *ahuja.anupa@epa.gov.* For the full EPA public comment policy, information about CBI, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Docket: The index to the docket for this action is available electronically at *www.regulations.gov.* While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.,* CBI).

FOR FURTHER INFORMATION CONTACT: Anupa Ahuja, EPA Region 6 Office, Infrastructure & Ozone Section, 214–665–2701, *ahuja.anupa@epa.gov.* Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office may be closed to the public to reduce the risk of transmitting COVID–19. We encourage the public to submit comments via *https://www.regulations.gov.* Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

I. Background

Ground-level ozone, or smog, which harms human health and the environment, is formed when volatile organic compounds (VOCs) and nitrogen oxides (NO_X) interact in the presence of sunlight. Sections 182(b)(2) and (f) of the CAA require that SIPs for ozone nonattainment areas classified as Moderate or above include implementation of RACT for any source covered by a Control Techniques Guidelines (CTG) document issued by the EPA, and for any major source of VOC or NO_X located in the nonattainment area. It is worth noting that for some CTG categories, RACT is applicable to minor or area sources. The EPA has defined RACT as the lowest emissions limitation that a particular source is capable of meeting by the application of control technology that is reasonably available, considering

technological and economic feasibility.[1] For a Moderate, Serious, or Severe ozone nonattainment area, a major stationary source is one that emits, or has the potential to emit, 100, 50, or 25 tons per year (tpy) or more of VOCs or NO_X, respectively. See CAA sections 182(b), 182(c), and 182(d). The EPA provides states with guidance concerning what types of controls could constitute RACT for a given source category through the issuance of CTG and Alternative Control Techniques (ACT) documents. See *https://www.epa.gov/ground-level-ozone-pollution/control-techniques-guidelines-and-alternative-control-techniques* (URL dated 8/31/2022) for a listing of EPA-issued CTGs and ACTs.

On March 27, 2008, the EPA revised the primary and secondary ozone.[2] On October 26, 2015, (80 FR 65292) EPA adopted another revision to the ozone standard, but the 2008 standard remains in place. This document concerns the VOC RACT requirements under the 2008 ozone standard.

Promulgation of a revised NAAQS triggers a requirement for the EPA to designate areas as nonattainment, attainment, or unclassifiable, and to classify the NAAs at the time of designation. On May 21, 2012, the EPA established initial area designations for most areas of the country with respect to the 2008 primary and secondary 8-hour ozone NAAQS.[3] The EPA published two rules addressing final implementation and air quality designations.[4] The implementation rule established classifications and associated attainment deadlines, among other things. The designation rule finalized the NAA boundaries for areas that did not meet the standard. Furthermore, the finalized nonattainment areas were classified according to the severity of their ozone air quality problems as determined by each area's design value.[5] The ozone classification categories were defined as Marginal, Moderate, Serious, Severe, or Extreme.

Effective July 20, 2012, the EPA designated as nonattainment, any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008–2010) of air monitoring data. With that rulemaking, the DFW area was classified as Moderate nonattainment and HGB area was classified as Marginal nonattainment.[6]

The HGB area was subsequently reclassified as Moderate in 2016[7] when the area failed to meet its attainment deadline. The DFW area failed to attain by its applicable attainment date, and the HGB area failed to meet the attainment deadline under the Moderate classification. Both NAAs were reclassified as Serious nonattainment for the 2008 8-hour ozone NAAQS, effective September 23, 2019,[8] with an attainment date of July 20, 2021.

Both the HGB and the DFW areas failed to attain the 2008 ozone NAAQS by their July 20, 2021 attainment date. As a result, both areas have been reclassified as Severe nonattainment for the 2008 8-hour ozone NAAQS.[9] The Severe area attainment deadline for both areas is July 20, 2027.

On October 27, 2016, the EPA announced a final CTG document for reducing VOC emissions from existing oil and natural gas industry equipment and processes.[10] As stated in that announcement, ''[s]ection 182(b)(2)(A) of the CAA requires that for areas designated nonattainment for an ozone [NAAQS] . . . and classified as Moderate [or above], states must revise their SIP to include provisions to implement RACT for each category of VOC sources covered by a CTG document.'' *Id.* The EPA provided a two-year period starting from October 27, 2016, for states to submit SIP revisions addressing RACT for VOC sources covered by the CTG (*i.e.,* SIP submissions were due from affected states to the EPA by October 27, 2018). On March 9, 2018, for reasons explained in the **Federal Register** (83 FR 10478), the EPA proposed to withdraw the CTG. However, the EPA did not finalize the proposal to withdraw the CTG. The EPA announced in the U.S. Office of Management and Budget's Spring 2020 Unified Agenda and Regulatory Plan that ''the CTG will remain in place as published on October 27, 2016.'' [11] Therefore, in response to the 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry (2016 Oil and Gas CTG), RACT SIP revisions were due for EPA review and approval from states with nonattainment areas classified as Moderate or higher for the 2008 ozone NAAQS.

On January 22, 2020, the Center for Biological Diversity and the Center for Environmental Health filed a lawsuit alleging, among other claims, that EPA failed to take action concerning certain nonattainment areas (including the DFW and HGB NAAs in Texas) that did not submit RACT SIP revisions in response to the 2016 Oil and Gas CTG in a timely manner.[12] On November 16, 2020, the EPA issued a finding of failure to submit for nine NAAs including DFW and HGB.[13]

On June 20, 2021, Texas adopted revisions to 30 TAC Chapter 115 Subchapter B, Division 7 Rules to address EPA's 2016 Oil and Gas CTG for the DFW and HGB NAA. These revisions were submitted to the EPA on July 20, 2021. EPA determined on December 3, 2021, that Texas's submittal met the SIP completeness criteria in 40 CFR 51, Appendix V.

II. Evaluation

A. Comparison of CTG Requirements and Control Measures in the DFW and HGB Areas

The 2016 Oil and Gas CTG recommends available control approaches for addressing VOC emissions from certain sources within the oil and natural gas industry. Sources of VOC emissions addressed in the CTG include storage vessels, compressors, pneumatic controllers, pneumatic pumps, equipment leaks at natural gas processing plants, and fugitive emissions.

We have reviewed Texas's new and revised 30 TAC Chapter 115 rules for the sources covered by the 2016 Oil and Gas CTG in the DFW and HGB NAAs and the demonstration submitted by Texas. Based on this review, we propose to find that these rules are consistent with the CAA. Moreover, the TCEQ rules are consistent with the control measures, definitions, recordkeeping, and test methods in the CTG for the sources in question. A detailed analysis is provided in the Technical Support Document (TSD) for this action and other supporting documents are available in the docket.

B. Additional 30 TAC Chapter 115 Rule Changes

Changes to existing Chapter 115 rules for existing sources covered by the 2016 Oil and Gas CTG in the DFW and HGB NAAs were made to consolidate rule requirements into a new section. Based

[1] 44 FR 53761 (September 17, 1979).

[2] 73 FR 16436 (March 27, 2008).

[3] 77 FR 30160 (May 21, 2012).

[4] 77 FR 30088 (May 21, 2012).

[5] The air quality design value for the 8-hour ozone NAAQS is the three-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. See 40 CFR part 50, appendix I.

[6] 77 FR 30088 (May 21, 2012).

[7] 81 FR 90207 (December 14, 2016).

[8] 84 FR 44238 (August 23, 2019).

[9] 87 FR 60926 (October 7, 2022).

[10] 81 FR 74798 (October 27, 2016).

[11] *See https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202004&RIN=2060-AT76* (last accessed October 13, 2022).

[12] *Center for Biological Diversity, et al.,* v. *Wheeler,* No. 3:20–cv–00448 (N.D. Cal.).

[13] 85 FR 72963 (November 16, 2020).

on our review, these changes are non-substantive and do not alter any existing rule requirement and we are proposing to approve the new codification of these requirements.

C. CAA Section 110(l) Analysis

CAA section 110(l) requires that a SIP revision submitted to EPA be adopted after reasonable notice and public hearing. Section 110(l) also requires that we not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

As part of its submittal the TCEQ provided copies of the Public Notice published in the Texas Register and local newspapers. The TCEQ also held a public hearing virtually on the revisions to the SIP on February 23, 2021. A copy of the Public Notice and the submitted revisions are posted in the docket for this action.

The revisions in 30 TAC Chapter 115 include inspection, testing, and control efficiency requirements for those sources and equipment types in the DFW and HGB NAAs that are covered by the 2016 Oil and Gas CTG. The new requirements include new or revised inspection, testing, and control efficiency requirements for some equipment types already covered by existing 30 TAC Chapter 115 rules and also cover additional types of equipment that are not currently regulated under existing rules. As a result of implementing new requirements that will reduce emissions, these revisions to 30 TAC Chapter 115 rules, would not interfere with the attainment and reasonable further progress of ozone pollution control requirements, or any other applicable requirement of the Act.

EPA also evaluated additional changes to certain existing 30 TAC Chapter 115 rules to consolidate existing rule requirements into a new section covering DFW and HGB NAA, for consistency. These rule changes are non-substantive and did not affect any inspection, monitoring, or control requirements. We do not expect these changes to interfere with attainment and reasonable further progress of ozone pollution control requirements, or any other applicable requirement of the Act.

The SIP submittal from Texas included records demonstrating that Texas adopted the new RACT rules after reasonable notice, a public hearing, and public comment. Thus, the CAA Section 110(l) requirements are met. Further, as shown in the TSD for this proposed action, our evaluation has determined the new rules in 30 TAC Chapter 115 to be consistent with RACT for purposes of satisfying the requirement triggered by the 2016 Oil and Gas CTG for those sources in the DFW and HGB NAA.

III. Proposed Action

We are proposing to approve the July 20, 2021 revisions to the Texas SIP concerning the DFW and HGB 2008 8-hour ozone NAAQS nonattainment areas as meeting the RACT requirements for an area designated as Serious for sources covered by the Oil and Gas CTG. The proposed approval is based on our review of 30 TAC Chapter 115 rules and revisions for consistency with Oil and Gas CTG.

IV. Incorporation by Reference

In this action, the EPA is proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to Texas's regulations as described in the Proposed Action section above. The EPA has made, and will continue to make, these documents generally available electronically through *www.regulations.gov* and in hard copy at the EPA Region 6 office.

V. Environmental Justice Considerations

For informational purposes only, EPA is providing additional information regarding this proposed action and potentially impacted populations in the TSD. This proposed action is intended to ensure that all communities and populations in the DFW and HGB NAAs, including overburdened communities, receive the full human health and environmental protection provided by the CAA. By reducing VOC emissions from the oil and natural gas industry, we believe that this proposed action is anticipated to have a neutral to positive impact on air quality and is not anticipated to worsen air quality. Nothing in the record indicates that this action, if finalized, will have a disproportionately high or adverse human health or environmental effects on communities with environmental justice concerns.

VI. Statutory and Executive Order Reviews

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

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

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

List of Subjects in 40 CFR Part 52

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

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

Dated: February 8, 2023.

Earthea Nance,

Regional Administrator, Region 6.

[FR Doc. 2023–03128 Filed 2–16–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2022–0115; FRL–9755–03–R10]

Air Plan Partial Approval and Partial Disapproval; AK, Fairbanks North Star Borough; 2006 24-Hour $PM_{2.5}$ Serious Area and 189(d) Plan; Extension of Comment Period and Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period; and notification of public hearing.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a public hearing to be held for the proposed action titled, ''Air Plan Partial Approval and Partial Disapproval; AK, Fairbanks North Star Borough; 2006 24-hour $PM_{2.5}$ Serious Area and 189(d) Plan'' which was published in the **Federal Register** on January 10, 2023. The EPA is also announcing the extension of the comment period for the proposed rulemaking to allow for sufficient time after the public hearing for commenters to submit comments.

DATES:

Written comments: The comment period for the proposed rulemaking published January 10, 2023 (88 FR 1454), is extended. The EPA must receive comments on the proposed action on or before March 22, 2023.

Public hearing. A public hearing will be held on March 7, 2023, to provide interested parties the opportunity to present information and opinions to the EPA concerning the proposed action. For further information on the public hearing, please see the **SUPPLEMENTARY INFORMATION** section.

ADDRESSES:

Public hearing. The public hearing will be held at the Wood Center, University of Alaska Fairbanks, 1731 S Chandalar Drive, Fairbanks, AK 99775. Additional information on the public hearing is provided in the **SUPPLEMENTARY INFORMATION** section of this document.

Written Comments. Submit your written comments, identified by Docket ID No. EPA–R10–OAR–2022–0115, at *https://www.regulations.gov.* Please refer to the EPA's proposed action published in the **Federal Register** on January 10, 2023 (88 FR 1454), for instructions for submitting written comments.

FOR FURTHER INFORMATION CONTACT: Matthew Jentgen, EPA Region 10, 1200 Sixth Avenue—Suite 155, Seattle, WA 98101, (206) 553–0340, *jentgen.matthew@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA is holding a hearing on its proposed action on the Fairbanks North Star Borough 2006 24-hour $PM_{2.5}$ Serious Area and 189(d) Plans. The EPA's proposed action was published in the **Federal Register** on January 10, 2023, (88 FR 1454).

The public hearing will be held on March 7, 2023, and will begin at 2 p.m. Alaska Standard Time (AKST). There will be a half hour break for dinner beginning at 5 p.m. The public hearing will re-start at 5:30 p.m. and will conclude at 8 p.m. AKST.

The hearing will be limited to the subject matter of the proposed action published in the **Federal Register** on January 10, 2023 (88 FR 1454). A 3-minute time limit may be placed on all oral testimony. The EPA may ask clarifying questions during oral testimony but will not respond to comments at that time. The EPA will not be providing equipment for commenters to show overhead slides or make computerized slide presentations. All oral testimony will be transcribed verbatim. The EPA will publish the verbatim transcript to the public docket for this action.

If you require the services of a translator or special accommodations such as audio description, please pre-register for the hearing by contacting the person in the **FOR FURTHER INFORMATION CONTACT** section of this document and describe your needs by March 1, 2023. The EPA may not be able to arrange accommodations without advance notice.

Written comments may also be submitted at the public hearing. Written statements and supporting information submitted during the comment period will be considered with the same weight as any oral comments and supporting information presented at the public hearing. The EPA recommends submitting the text of your oral comments as written comments to the rulemaking Docket ID No. EPA–R10–OAR–2022–0115, which can be found at *https://www.regulations.gov.*

In the final rule, the EPA will provide a written response to all relevant written and oral comments received during the comment period on the proposed rule. A transcript of the hearing and written comments will be made available upon request from the person listed in the **FOR FURTHER INFORMATION CONTACT** section in this document, and will be included in the public docket for this action.

Dated: February 13, 2023.

Krishnaswamy Viswanathan,

Director, Air and Radiation Division, Region 10.

[FR Doc. 2023–03419 Filed 2–16–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2022–0753, FRL–10190–01–R10]

Air Plan Approval; ID; State Board Composition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to approve a revision to the Idaho State Implementation Plan submitted on August 9, 2022. The State of Idaho made the submission to meet the state board composition requirements of the Clean Air Act.

DATES: Comments must be received on or before March 20, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2022–0753, at *www.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 electronically submit any information you consider to be Confidential Business Information or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about Confidential Business Information or multimedia submissions, and general guidance on making

effective comments, please visit *www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kristin Hall, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553–6357 or *hall.kristin@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, the use of ''we'' is intended to refer to the EPA.

Table of Contents

I. Background

Clean Air Act section 128 requires that each State Implementation Plan (SIP) include provisions to regulate state boards and agency heads that approve permits or enforcement orders under the Clean Air Act. The section has two subsections. The first, 128(a)(1), governs board composition and requires that at least a majority of board members represent the public interest and do not derive any significant portion of income from persons subject to permits or enforcement orders under the Clean Air Act. The second, 128(a)(2), requires that board members and agency heads with similar powers adequately disclose any potential conflicts of interest.

The current Idaho SIP includes two provisions that were approved by the EPA as meeting the Clean Air Act state board requirements, most recently in 2013.[1] Specifically, we approved the Idaho Governor's Executive Order regarding Appointment of Members of the Board of Environmental Quality as meeting the board composition requirements of section 128(a)(1),[2] and we approved the Idaho Ethics in Government Act as meeting the conflict of interest disclosure requirements of section 128(a)(2).[3]

Since that time, the Idaho Legislature updated State statute to effectively replace the prior executive order. Specifically, the legislature updated Idaho Code section 39–107, which establishes requirements to be followed when appointing members to the Idaho Board of Environmental Quality.[4] On August 9, 2022, the Idaho Department of Environmental Quality submitted the statutory revision to the EPA for approval.

II. Evaluation

The revision to Idaho Code section 39–107, at paragraph (1)(a), adds the requirement that at least four of the seven members of the Idaho Board of Environmental Quality must represent the public interest and not derive any significant portion of their income from persons subject to air quality permits or enforcement orders.

After reviewing the submission, we have determined that Idaho Code 39–107, State effective July 1, 2022, is consistent with Clean Air Act section 128(a)(1) requirements.[5]

III. Proposed Action

The EPA is proposing to approve Idaho's August 9, 2022 SIP revision as meeting the board composition requirements of Clean Air Act section 128(a)(1). Specifically, we propose to approve and incorporate by reference Idaho Code 39–107, State effective July 1, 2022, into the Idaho SIP at 40 CFR 52.670(c).[6] As discussed in Section II of this preamble, this statutory provision replaces a prior executive order issued by the Idaho Governor and approved by the EPA as meeting the same requirements. Therefore, we are proposing to remove the prior executive order from the Idaho SIP at 40 CFR 52.670(e).[7]

IV. Incorporation by Reference

In this document, the EPA is proposing to include in a final rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the provision described in Section III of this preamble. The EPA has made, and will continue to make, these documents generally available through *regulations.gov* and at the EPA Region 10 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

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

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

[1] 78 FR 63394, October 24, 2013.

[2] Executive Order 2013–06, dated June 26, 2013, and renewed by Executive Order 2016–07, dated December 14, 2016.

[3] Idaho Code sections 59–701 through 59–705, subsequently relocated to Idaho Code Title 74 Chapter 4, effective July 1, 2015. See 84 FR 14067, April 9, 2019 for the EPA's proposed determination that the relevant, substantive components of the law, approved for purposes of SIP authority, were retained in the recodification, and see 85 FR 57723, September 16, 2020, finalizing that rulemaking action.

[4] The EPA first approved this statutory provision into the Idaho SIP on July 28, 1982 (47 FR 32530), and approved a subsequent revision on January 16, 2003 (68 FR 2217).

[5] We note that Idaho's August 9, 2022 SIP revision addresses the board composition requirement under CAA section 128(a)(1). The revision does not affect EPA's prior determination that the Idaho SIP satisfies CAA section 128(a)(2), and that prior determination is outside the scope of this action.

[6] 40 CFR 52.670(c) consists of EPA approved regulatory provisions.

[7] Executive Order 2013–06, dated June 26, 2013, and renewed by Executive Order 2016–07, dated December 14, 2016. 40 CFR 52.670(e) consists of EPA approved nonregulatory provisions and quasi-regulatory measures.

In addition, this proposed rulemaking would not apply on any Indian reservation land or in any other area in Idaho where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule would not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: February 10, 2023.

Casey Sixkiller,

Regional Administrator, Region 10.

[FR Doc. 2023–03415 Filed 2–16–23; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R6–ES–2022–0100; FXES11130600000–223–FF06E00000]

RIN 1018–BG79

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of the Gray Wolf in Colorado

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; availability of supplemental information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to establish a nonessential experimental population (NEP) of the gray wolf (*Canis lupus*) in the State of Colorado, under section 10(j) of the Endangered Species Act of 1973, as amended (Act). The State of Colorado (Colorado Parks and Wildlife or CPW) requested that the Service establish an NEP in conjunction with their State-led gray wolf reintroduction effort. Establishment of this NEP would provide for allowable, legal, purposeful, and incidental taking of the gray wolf within a defined NEP area while concurrently providing for the conservation of the species. The geographic boundaries of the NEP would include the State of Colorado. The best available data indicate that reintroduction of the gray wolf into Colorado is biologically feasible and will promote the conservation of the species. We are seeking comments on this proposal and on our associated draft environmental impact statement (DEIS), prepared pursuant to the National Environmental Policy Act of 1969, as amended, which describes the potential alternatives for providing a regulatory framework for the State's reintroduction.

DATES: We will accept comments on this proposed rule or the DEIS that are received or postmarked on or before April 18, 2023. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date.

Information Collection Requirements: If you wish to comment on the information collection requirements in this proposed rule, please note that the Office of Management and Budget (OMB) is required to make a decision concerning the collection of information contained in this proposed rule between 30 and 60 days after publication of this proposed rule in the **Federal Register**. Therefore, comments should be submitted to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, (see ''Information Collection'' section below under **ADDRESSES**) by April 18, 2023.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–R6–ES–2022–0100, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R6–ES–2022–0100, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: This proposed rule and the DEIS are available on *https://www.regulations.gov* at Docket No. FWS–R6–ES–2022–0100 and on the Service's website at *https://www.fws.gov/coloradowolf.* We will also post information regarding public meetings at this website. Hardcopies of the documents are also available for public inspection at the address shown in **FOR FURTHER INFORMATION CONTACT**. Additional supporting information that we developed for this proposed rule will be available on the Service's website, at *https://www.regulations.gov,* or both.

Information Collection Requirements: Send your comments on the information collection request to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, by email to *Info_Coll@fws.gov;* or by mail to 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803. Please reference ''OMB Control Number 1018-Gray Wolf'' in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: Nicole Alt, Field Supervisor, U.S. Fish and Wildlife Service, Colorado Ecological Services Field Office, 134 Union Boulevard, Suite 670, Lakewood, CO 80228; telephone 303–236–4773. 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:

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule.

We particularly seek comments concerning:

(1) The proposed geographic boundary of the NEP;

(2) Information pertaining to the conservation status of gray wolves and how it relates to the proposed reintroduction and rulemaking efforts;

(3) The adequacy of the proposed regulations for the NEP;

(4) Management flexibilities that could be added to the final rule to address expanding gray wolf populations; and

(5) Whether to allow lethal management of gray wolves that are

having a significant impact to ungulate populations, similar to the provisions in the 2005 final rule that established a northern Rocky Mountains (NRM) gray wolf nonessential experimental population (70 FR 1286, January 6, 2005).

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *https://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *https://www.regulations.gov.* Because we will consider all comments and information we receive during the comment period, our final determinations may differ from this proposal.

Peer Review

In accordance with our Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities, which was published on July 1, 1994 (59 FR 34270), and the internal memorandum clarifying the Service's interpretation and implementation of that policy (Service in litt. 2016), we will seek the expert opinion of at least three appropriate independent specialists regarding scientific data and interpretations contained in this proposed rule. We will send copies of this proposed rule to the peer reviewers immediately following publication in the **Federal Register**. The purpose of such review is to ensure that our decisions are based on scientifically sound data, assumptions, and analysis. Accordingly, the final decision may differ from this proposal. As noted below under *Management Restrictions, Protective Measures, and Other Special Management* and *Means To Identify the Experimental Population* we are considering whether to allow lethal management in response to impacts to wild ungulate herds under specific circumstances, and revising the NEP area if necessary. We are seeking comments regarding both these issues.

Previous Federal Actions

Our November 3, 2020, final rule to remove the gray wolf from the Federal List of Endangered and Threatened Wildlife in title 50 of the Code of Federal Regulations at 50 CFR 17.11(h) provides a full summary of our previous Federal actions for the species (85 FR 69778). Please see that final rule for additional information and detail regarding our previous Federal actions for the gray wolf. Although the action of delisting gray wolves in that rule was vacated, the regulatory history summary on pages 69779 to 69784 presents an accurate account of the regulatory history of gray wolves under the Act. Below, we summarize the previous Federal actions for the species that are most relevant to this proposed action or were completed since the November 3, 2020, final rule.

The gray wolf was originally listed as a subspecies or as regional populations of subspecies in the lower 48 United States and Mexico. Early listings were under legislative predecessors of the Act—the Endangered Species Preservation Act of 1966 and the Endangered Species Conservation Act of 1969. Later listings were under the Endangered Species Act of 1973. In 1978, we published a rule reclassifying the gray wolf throughout the lower 48 United States and Mexico, subsuming the earlier listings of subspecies or regional populations of subspecies. The 1978 reclassification was undertaken to address changes in our understanding of gray wolf taxonomy and protect the species in the lower 48 United States and Mexico (43 FR 9607, March 9, 1978). Since that time, a long regulatory and legal history has resulted in two currently listed entities of gray wolves in the United States. These are: (1) *C. lupus* in Minnesota, listed as threatened, and (2) *C. lupus* wherever found in 44 U.S. States (''44-State entity''), and Mexico, listed as endangered (figure 1). In the United States, this includes: all of Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin; and portions of Arizona, New Mexico, Oregon, Utah, and Washington (figure 1). On April 2, 2009, we identified the Northern Rocky Mountains (NRM) gray wolf population as a distinct population segment and delisted that entity (74 FR 15123). The gray wolf is currently delisted in the NRM, which includes all of Idaho, Montana, and Wyoming, the eastern one-third of Oregon and Washington, and a small portion of north-central Utah (figure 1). Figure 1 does not depict historical range; see figure 2 for historical and current ranges.

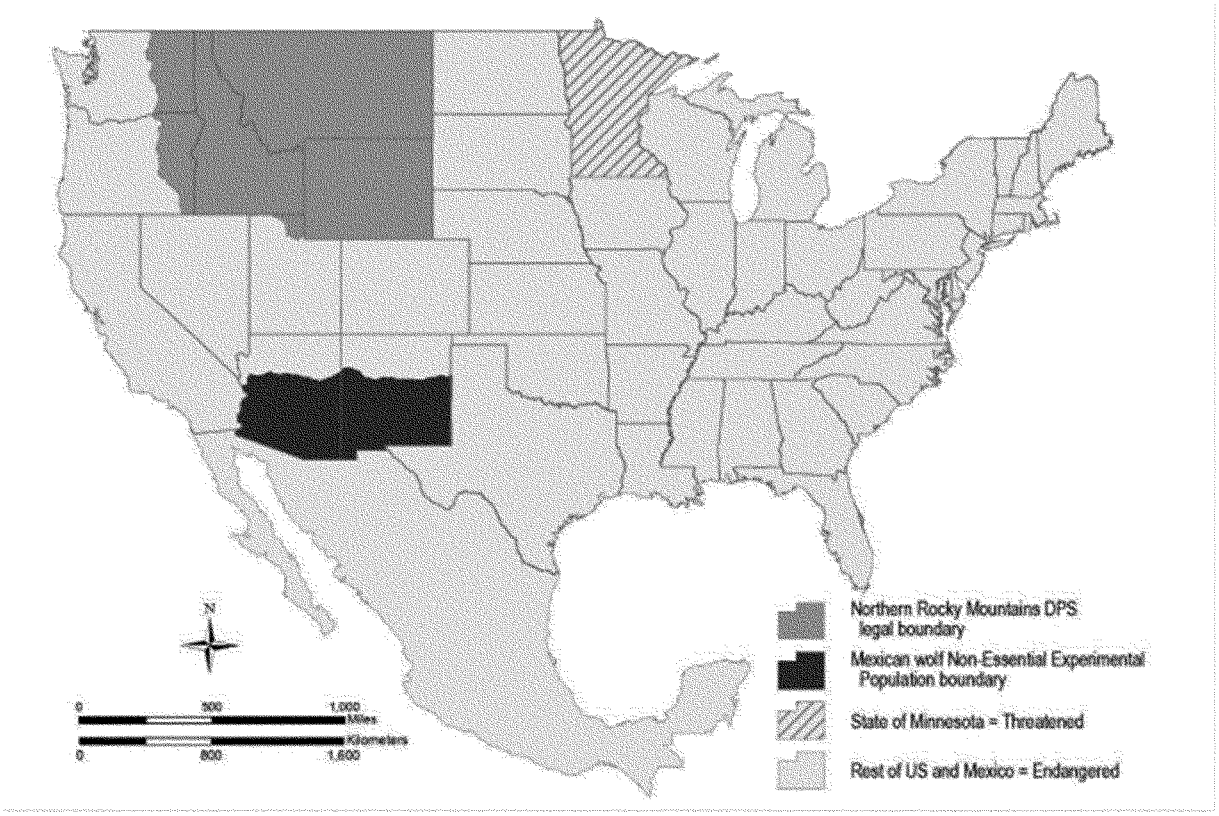

Figure 1. Current legal status of *C. lupus* under the Act in Minnesota, the 44-State entity wherever found, and Mexico. The former Northern Rocky Mountains distinct population segment (DPS) and the Mexican wolf nonessential experimental population (NEP) are not part of the currently listed entities. All map lines are approximations; see 50 CFR 17.84(k) for exact boundaries.

On November 3, 2020, we published the final rule to delist the two currently listed *C. lupus* entities under the Act (85 FR 69778). The rule became effective on January 4, 2021. On February 10, 2022, the U.S. District Court for the District of Northern California vacated the final rule, resulting in the reinstatement of the 44-State entity as endangered and the Minnesota entity as threatened (*Defenders of Wildlife* v. *U.S. Fish & Wildlife Serv.,* No. 21–CV–00344–JSW, 2022 WL 499838 (N.D. Cal. Feb. 10, 2022)) (figure 1, above). As a result, the gray wolf is listed as an endangered species under the Act in the State of Colorado and all or parts of 43 additional States. The List of Endangered and Threatened Wildlife in 50 CFR 17.11(h) does not currently reflect this status information. However, the entries on the List pertaining to the gray wolf will be corrected to reflect the current status of gray wolf before any final rule to this proposed rulemaking action is effective.

Background and Biological Information

We provide detailed background information on gray wolves in the lower 48 United States in a separate Gray Wolf Biological Report (Service 2020, entire) and the 2020 final rule to delist the two currently listed *C. lupus* entities under the Act (85 FR 69778, November 3, 2020). Information in these documents is relevant to reintroduction efforts for gray wolves that may be undertaken in Colorado, and it can be found along with this rule at *https://www.regulations.gov* in Docket No. FWS–R6–ES–2022–0100 (see *Supplemental Documents*). We summarize relevant information from these documents below.

Species Description

Gray wolves are the largest wild members of the canid (dog) family, with adults ranging in weight from 18 to 80 kilograms (40 to 175 pounds), depending on sex and geographic locale. Gray wolves are highly territorial, social animals that live and hunt in packs. They are well adapted to traveling fast and far in search of food, and to catching and eating large mammals. In North America, they are primarily predators of medium to large mammals, including deer, elk, and other species, and are efficient at shifting their diet to take advantage of available food resources (Service 2020, p. 6).

Historical and Current Range

Gray wolves have a broad circumpolar range. In the lower 48 United States, range and number of gray wolves declined significantly during the 19th and 20th centuries primarily due to humans killing wolves through poisoning, unregulated trapping and shooting, and government-funded wolf extermination efforts (Service 2020, pp. 9–14). By the time subspecies were first listed under the Act in 1974, gray wolves had been eliminated from most of their historical range within the lower 48 United States. Outside of Alaska, wolves occurred in only two places within the lower 48 United States. An estimated 1,000 wolves persisted in northeastern Minnesota, and a small, isolated group of about 40 wolves occurred on Isle Royale, Michigan (Service 2020, pp. 12–14).

During the years since the species was reclassified in 1978, gray wolves within the lower 48 United States expanded in distribution (figure 2) and increased in number (Service 2020, p. 14). Gray wolves within the lower 48 United States now exist primarily in two large, stable or growing metapopulations in two separate geographic areas in the lower 48 United States—one in the

western Great Lakes area of the Eastern United States and one in the Western United States (Service 2020, p. 27). Subpopulations of gray wolves within each of these metapopulations are well-connected as evidenced by documented movements between States and high levels of genetic diversity (Service 2020, p. 27). The western Great Lakes metapopulation consists of more than 4,200 individuals broadly distributed across the northern portions of Michigan, Minnesota, and Wisconsin (Service 2020, p. 27). This metapopulation is also connected, via documented dispersals, to the large and expansive population of about 12,000–14,000 wolves in eastern Canada. As a result, gray wolves in the Great Lakes area do not function as an isolated metapopulation of 4,200 individuals in 3 States, but rather as part of a much larger ''Great Lakes and Eastern Canada'' metapopulation (Service 2020, pp. 27–28).

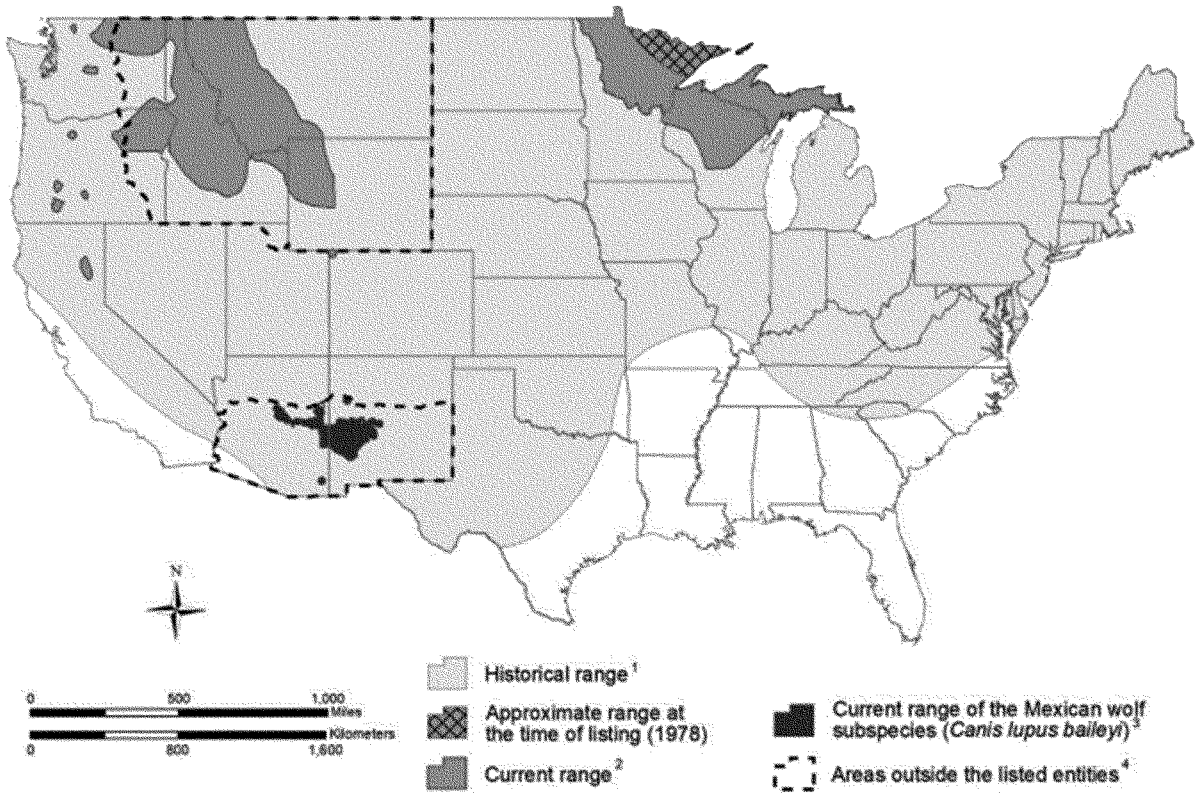

Figure 2. Historical range and current range (as of January 2020) of gray wolves (*Canis lupus*) in the lower 48 United States.

[1] Based on Nowak (1995)

[2] Based on State data.

[3] U.S. portion of range only.

[4] Northern Rocky Mountains distinct population segment (DPS) and Mexican wolf nonessential experimental population (NEP) area boundaries.

Gray wolves in the Western United States are distributed across the NRM and into western Oregon, western Washington, northern California, and most recently in northcentral Colorado (figure 2, above; Service 2020, p. 28). The Western United States metapopulation consisted of more than 1,900 gray wolves in 2015 (at least 1,880 in the NRM and at least 26 outside the NRM boundary), the final year of a combined northern Rocky Mountains wolf annual report (Service 2020, p. 28, appendix 2). Based on the most current abundance estimates of gray wolves, Idaho estimated 1,543 gray wolves inhabited the State as of August 2021, and Montana had an estimated 1,144 gray wolves at the end of 2021 (Parks et al. 2022, pp. 9–10). In addition, the most recent year-end minimum counts for 2021 indicated at least 314 gray wolves in Wyoming, 206 wolves in Washington, 175 wolves in Oregon, and 17 in California (California Department of Fish and Wildlife (CDFW) 2021, entire; Oregon Department of Fish and Wildlife (ODFW) 2022, p. 4; Washington Department of Fish and Wildlife (WDFW) et al. 2022, p. 13; Wyoming Game and Fish Department (WGFD) et al. 2022, p. 3).

Until recently, only lone wolves had been confirmed in Colorado beginning with a dispersing individual that died as a result of a vehicle collision in 2004. A disperser from Wyoming was first documented in north-central Colorado during the summer of 2019 and paired up with another wolf during the winter of 2020 (CPW 2021a, entire). This pair produced offspring in spring 2021, becoming the first documented reproductively active pack in Colorado in recent history. As of September 2022, this pack contains the only known wolves in Colorado, comprising seven individuals. This single pack does not meet the definition of a population of gray wolves used by the Service for previous NEP designations in the NRM (*i.e.,* two breeding pairs successfully raising at least two pups for 2 consecutive years; Service 1994, appendix 8). No evidence of reproduction in this pack has been documented in 2022. In January of 2020, CPW personnel also confirmed at least six wolves traveling together in Moffatt County in northwestern Colorado (Service 2020, p. 9). Later that year, that group was down to a single individual, and, at present, there is no indication that any wolf or wolves remain in that

part of Colorado. As such, we do not consider any gray wolves currently found in Colorado to constitute a population.

Life Cycle

Gray wolves are highly territorial, social animals and group hunters, normally living in packs of 7 or less but sometimes attaining pack sizes of 20 or more wolves (Service 2020, p. 6). Wolves of both sexes reach sexual maturity between 1 and 3 years of age and, once paired with a mate, may produce young annually until they are over 10 years old. Litters are born from early April into May and can range from 1 to 11 pups but generally include 5 to 6 pups (Service 2020, p. 6). Normally a pack has a single litter annually, however, multiple litters have been documented in approximately 25 percent of packs annually in Yellowstone National Park (Stahler et al. 2020, p. 52). Offspring usually remain with their parents for 10–54 months before dispersing (reviewed by Mech and Boitani 2003, Jimenez et al. 2017).

Habitat Use

The gray wolf is highly adaptable and can successfully occupy a wide range of habitats provided adequate prey (primarily ungulates) exists and human-caused mortality is sufficiently regulated (Mech 2017, pp. 312–315). Wolf packs typically occupy and defend a territory of 33 to more than 2,600 square kilometers (km^2) (13 to more than 1,004 square miles (mi^2)), with territories tending to be smaller at lower latitudes (Mech and Boitani 2003, p. 163; Fuller et al. 2003, pp. 187–188). The large variability in territory size is likely due to differences in pack size; prey size, distribution, and availability; lag time in population responses to changes in prey abundance; and variation in prey vulnerability (*e.g.,* seasonal age structure in ungulates) (Mech and Boitani 2003, p. 163).

To identify areas of suitable wolf habitat in the conterminous United States, researchers have used models that relate the distribution of wolves to characteristics of the landscape. These models have shown the presence of wolves is correlated with prey availability and density, livestock density, road density, human density, land ownership, habitat patch size, and forest cover (Mladenoff et al. 1995, pp. 284–292; Mladenoff et al. 1999, pp. 41–43; Carroll et al. 2003, entire; Carroll et al. 2006, p. 542; Oakleaf et al. 2006, pp. 558–559; Hanley et al. 2018, pp. 6–8).

In the Western United States, habitat models have identified suitable wolf habitat in the northern Rocky Mountains, southern Rocky Mountains (including Colorado and Utah), the Cascade Mountains of Washington and Oregon, and a small portion of the northern Sierra Nevada (Bennett 1994, entire; Switalski et al. 2002, entire; Carroll et al. 2003, entire; Carroll et al. 2006, p. 542; Larsen and Ripple 2006, entire; Oakleaf et al. 2006, pp. 558–559; Maletzke et al. 2015, entire; Oregon Department of Fish and Wildlife 2015, entire; Ditmer et al. 2022, entire). Large blocks of suitable habitat have been identified in the central and southern Rocky Mountains but are currently unoccupied, with the exception of occasional dispersing wolves and the single group of seven wolves in north-central Colorado.

Movement Ecology

Gray wolves rarely disperse before 10 months of age, and most commonly disperse between 1–3 years of age (Gese and Mech 1991, p. 2949; Treves et al. 2009, entire; Jimenez et al. 2017, p. 589). Generally, by the age of 3 years, most wolves will have dispersed from their natal pack to locate social openings in existing packs or find a mate and form a new pack (Service 2020, p. 7). Dispersers may become nomadic and cover large areas as lone animals, or they may locate unoccupied habitats and members of the opposite sex to establish their own territorial pack (Jimenez et al. 2017, p. 589). Dispersal distances in North America typically range from 65 to 154 kilometers (km) (40 to 96 miles) (Jimenez et al. 2017, p. 585), although dispersal distances of several hundred kilometers are occasionally reported (Jimenez et al. 2017, p. 588). The ability to disperse long distances allows populations of gray wolves to quickly expand and recolonize vacant habitats provided rates of human-caused mortality are not excessive (*e.g.,* Mech 1995, Boyd and Pletcher 1999, Treves et al. 2009, Mech 2017, Hendricks et al. 2019). However, the rate of recolonization can be affected by the extent of intervening unoccupied habitat between the source population and newly colonized area, as Allee effects (reduced probability of finding a mate at low densities) are stronger at greater distances from source populations (Hurford et al. 2006, p. 250; Stenglein and Van Deelen 2016, entire).

Causes of Decline and Threats

Unregulated, human-caused mortality was the primary factor that caused population declines of gray wolves across the lower 48 States during the late 1800s and early 1900s. Although there are some places wolves are not likely to persist long term due to high human or livestock densities, the regulation of human-caused mortality has been a primary factor contributing to increased wolf abundance and distribution in the lower 48 States. Regulation of human-caused mortality has significantly reduced the number of wolf mortalities caused by humans and, although illegal and accidental killing of wolves is likely to continue with or without the protections of the Act, at current levels those mortalities have had minimal impact on the abundance or distribution of gray wolves. The high reproductive potential of wolves, and their innate behavior to disperse and locate social openings or vacant suitable habitats, allows populations of gray wolves to withstand relatively high rates of human-caused mortality (Service 2020, pp. 8–9). See *Historical and Current Range* and *Habitat Use* sections, above, for additional information.

Recovery Efforts to Date

Following our 1978 reclassification of the species under the Act, our national wolf strategy focused on conservation of gray wolves in three regions: the western Great Lakes; the NRM; and Mexican wolves in the Southwest and Mexico. We drafted recovery plans and implemented recovery programs for gray wolves in these three regions (Service 1987, entire; Service 1992, entire; Service 2017, entire). The revised NRM Wolf Recovery Plan established recovery criteria for wolves in three recovery areas across Idaho, Montana, and Wyoming (Service 1987, entire), while the Recovery Plan for the Eastern Timber Wolf (Service 1992, entire) addressed populations of gray wolves in the upper Midwest. Mexican wolves have been listed separately as an endangered subspecies of gray wolf since 2015 and are not addressed in this proposed rule.

The currently listed entity of gray wolf, to which the proposed Colorado NEP belongs, includes all or parts of 44 States; this listed entity encompasses populations of gray wolves in the Great Lakes States of Michigan and Wisconsin as well as wolves outside the delisted NRM in the Western United States. We have not included gray wolves outside the NRM and western Great Lakes in any recovery plan. However, as noted above, the presence of gray wolves in California, Oregon, and Washington, as well as the single pack in Colorado, is a result of dispersal and recolonization from core populations in the NRM in addition to reproduction and dispersal from resident packs in these States and neighboring Canadian provinces.

While there are no Federal recovery plans addressing wolf recovery in

western States outside Idaho, Montana, and Wyoming, the States of California, Colorado, Oregon, Washington, and Utah have demonstrated a commitment to wolf conservation by developing management plans or codifying laws and regulations to protect wolves (November 3, 2020, 85 FR 69778); this includes the passage of a voter-led initiative in Colorado calling specifically for the reintroduction of gray wolves to the western portion of the State (Colorado Revised Statute 33–2–105.8). At the end of 2021, 6 packs of gray wolves (totaling at least 43 wolves and 4 breeding pairs) were documented in western Washington where wolves are federally listed (WDFW et al. 2022, p. 16). In the western two-thirds of Oregon, where gray wolves are federally listed, a minimum of 31 wolves including at least 2 breeding pairs were distributed across 3 packs and 4 additional groups of 2 to 3 wolves at the end of 2021 (ODFW 2022, p. 5). Wolves originating from Oregon have also expanded their range into California where a minimum of 17 wolves in 3 packs were documented at the end of 2021 (CDFW 2021, entire).

In addition to gray wolves found in the western States outside of the delisted NRM population, the Great Lakes metapopulation, consisting of approximately 4,200 wolves, is broadly distributed across the threatened Minnesota population and wolves in Michigan and Wisconsin that are part of the 44-State listed entity (Service 2020, p. 27). These States have an established history of cooperating with and assisting in recovery efforts for gray wolves and have made a commitment, through legislative actions, to continue these activities. For additional information regarding State management plans in Minnesota and states comprising the 44-State entity, see our November 3, 2020, final rule to delist the two currently listed *C. lupus* entities under the Act (85 FR 69778). At present, both Minnesota and Wisconsin are in the process of updating their State wolf management plans.

The NRM Wolf Recovery Plan was approved in 1980 (Service 1980, p. i) and revised in 1987 (Service 1987, p. i). The recovery goal for the NRM was reevaluated and, when necessary, modified as new scientific information warranted (Service 1987, p. 12; Service 1994, appendices 8 and 9; Fritts and Carbyn 1995, p. 26; Bangs 2002, p. 1; 73 FR 10514, February 27, 2008; 74 FR 15123, April 2, 2009). The Service's resulting recovery goal for the NRM population of gray wolves was 30 or more breeding pairs, defined as an adult male and an adult female wolf that have produced at least 2 pups that survived until December 31 of the year of their birth during the previous breeding season (Service 1994), comprising at least 300 wolves equitably distributed among Idaho, Montana, and Wyoming for 3 consecutive years, with genetic exchange (either natural or, if necessary, agency managed) between subpopulations. To provide a buffer above these minimum recovery levels, each State was to manage for at least 15 breeding pairs and 150 wolves in midwinter (77 FR 55530, September 10, 2012, pp. 55538–55539; 74 FR 15123, April 2, 2009, p. 15132). For additional information on NRM wolf recovery goals, see 74 FR 15130–15135 (April 2, 2009) and references therein.

Wolves in the NRM distinct population segment (DPS) have recovered and were delisted. The NRM population achieved its numerical and distributional recovery goals at the end of 2000 (Service et al. 2008, table 4). The temporal portion of the recovery goal was achieved in 2002 when the numerical and distributional recovery goals were exceeded for the third successive year (Service et al. 2008, table 4). In 2009, we concluded that gray wolves in the NRM far exceeded recovery goals. We also concluded that the NRM population: (1) Had at least 45 reproductively successful packs and 450 individual wolves each winter (near the low point in the annual cycle of a wolf population); (2) was equitably distributed within the 250,000-km^2 (100,000-mi^2) area containing 3 areas of large core refugia (National Parks, wilderness areas, large blocks of remote secure public land) and at least 170,228 km^2 (65,725 mi^2) of suitable wolf habitat; and (3) was genetically diverse and had demonstrated successful genetic exchange through natural dispersal and human-assisted migration management between all 3 core refugia (74 FR 15123, April 2, 2009). Gray wolves in the NRM remain well above the recovery goals established for this region (see *Historical and Current Range* section, above).

Reintroduction

To date, purposeful reintroduction of gray wolves to Colorado has not occurred; current wolf occupancy in Colorado is the result of natural wolf dispersal from the NRM population (Service 2020, pp. 15–19, 28; see *Historical and Current Range* section, above). The reintroduction of gray wolves in Idaho and Wyoming in the 1990s contributed to achieving the recovery goals for the NRM population in 2002 (Service et al. 2008). For additional details on NRM reintroduction efforts, please see our biological report (Service 2020, entire) and the *Release Procedures* section in this document, below.

Regulatory Framework

Section 9 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the prohibitions afforded to threatened and endangered species. Section 9 of the Act prohibits take of endangered wildlife. ''Take'' is defined by the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Section 7 of the Act outlines the procedures for Federal interagency cooperation to conserve federally listed species and protect designated critical habitat. It mandates that all Federal agencies use their existing authorities to further the purposes of the Act by carrying out programs for the conservation of listed species. It also requires that Federal agencies, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Section 7 of the Act does not affect activities undertaken on private land unless they are authorized, funded, or carried out by a Federal agency.

The 1982 amendments to the Act (16 U.S.C. 1531 *et seq.*) included the addition of section 10(j), which allows for populations of listed species planned to be reintroduced to be designated as ''experimental populations.'' The provisions of section 10(j) were enacted to ameliorate concerns that reintroduced populations will negatively impact landowners and other private parties, by giving the Secretary of the Interior greater regulatory flexibility and discretion in managing the reintroduced species to encourage recovery in collaboration with partners, especially private landowners. Under section 10(j) of the Act, and our implementing regulations at 50 CFR 17.81, the Service may designate a population of an endangered or threatened species that will be released within its probable historical range as an experimental population. The Service may also designate an experimental population for an endangered or threatened species outside of the species' probable historical range in extreme cases when the Director of the Service finds that the primary habitat of the species within its historical range has been unsuitably and irreversibly altered or destroyed. Under section 10(j) of the Act, we make a

determination whether or not an experimental population is essential to the continued existence of the species based on best available science. Our regulations define an essential population as one whose loss would be likely to appreciably reduce the likelihood of the survival of the species in the wild. All other experimental populations are to be classified as ''nonessential'' (50 CFR 17.80(b)).

We treat any population determined by the Secretary to be an experimental population as if we had listed it as a threatened species for the purposes of establishing protective regulations with respect to that population (50 CFR 17.82). The designation as an experimental population allows us to develop tailored ''take'' prohibitions that are necessary and advisable to provide for the conservation of the species. The protective regulations adopted for an experimental population will contain applicable prohibitions, as appropriate, and exceptions for that population, allowing us discretion in devising management programs to provide for the conservation of the species.

Section 7(a)(2) of the Act requires that Federal agencies, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or adversely modify its critical habitat. For the purposes of section 7 of the Act, we treat an NEP as a threatened species when the population is located within a National Wildlife Refuge or unit of the National Park Service (50 CFR 17.83; see 16 U.S.C. 1539(j)(2)(C)(i)). When NEPs are located outside of a National Wildlife Refuge or National Park Service unit, for the purposes of section 7, we treat the population as proposed for listing and only sections 7(a)(1) (50 CFR 17.83) and 7(a)(4) (50 CFR 402.10) of the Act apply (50 CFR 17.83). In these instances, NEPs provide additional flexibility in managing the nonessential population because Federal agencies are not required to consult with us under section 7(a)(2). Section 7(a)(1) requires all Federal agencies to use their authorities to carry out programs for the conservation of listed species. Section 7(a)(4) requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a species proposed to be listed. As a result, NEPs provide additional flexibility in managing the nonessential population.

Section 10(j)(2)(C)(ii) of the Act states that critical habitat shall not be designated for any experimental population that is determined to be nonessential. Accordingly, we cannot designate critical habitat in areas where we establish an NEP.

Before authorizing the release as an experimental population of any population (including eggs, propagules, or individuals) of an endangered or threatened species, and before authorizing any necessary transportation to conduct the release, the Service must find by regulation that such release will further the conservation of the species. In making such a finding the Service uses the best scientific and commercial data available to consider:

(1) Any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere (see *Effects on Wild Populations,* below);

(2) The likelihood that any such experimental population will become established and survive in the foreseeable future (see *Likelihood of Population Establishment and Survival,* below);

(3) The relative effects that establishment of an experimental population will have on the recovery of the species (see *Effects of the NEP on Recovery Efforts,* below); and

(4) The extent to which the introduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area (see *Likelihood of Population Establishment and Survival,* below).

Furthermore, as set forth at 50 CFR 17.81(c), all regulations designating experimental populations under section 10(j) of the Act must provide:

(1) Appropriate means to identify the experimental population, including, but not limited to, its actual or proposed location, actual or anticipated migration, number of specimens released or to be released, and other criteria appropriate to identify the experimental population (see Proposed Experimental Population and Experimental Population Regulation Requirements sections, below);

(2) A finding, based solely on the best scientific and commercial data available, and the supporting factual basis, on whether the experimental population is, or is not, essential to the continued existence of the species in the wild (see *Is the Proposed Experimental Population Essential or Nonessential?* section, below);

(3) Management restrictions, protective measures, or other special management concerns for that population, which may include, but are not limited to, measures to isolate and/or contain the experimental population designated in the regulations from natural populations (see *Management Restrictions, Protective Measures, and Other Special Management,* below); and

(4) A process for periodic review and evaluation of the success or failure of the release and the effect of the release on the conservation and recovery of the species (see *Review and Evaluation of the Success or Failure of the NEP,* below).

Under 50 CFR 17.81(d), the Service must consult with appropriate State fish and wildlife agencies, local governmental entities, affected Federal agencies, affected Tribes, and affected private landowners in developing and implementing experimental population rules. To the maximum extent practicable, section 10(j) rules represent an agreement between the Service, the affected State and Federal agencies, affected Tribes, and persons holding any interest in land that may be affected by the establishment of an experimental population.

Proposed Experimental Population

We are proposing to designate this NEP at the request of CPW, to facilitate their planned reintroduction of gray wolves to the State per the requirements of Proposition 114 (now codified as Colorado Revised Statute 33–2–105.8), which directs the CPW Commission to take the steps necessary to reintroduce gray wolves to lands west of the Continental Divide by December 23, 2023.

Proposed Reintroduction Areas and Release Sites

The proposed NEP area is the entire State of Colorado. This scale is appropriate, given that CPW has proposed a discrete release area (figure 3), and gray wolves have high dispersal ability (Jimenez et al. 2017, p. 582). Furthermore, gray wolves released on the west side of the Continental Divide may move to locations beyond the western portion of the State, including east of the Continental Divide. Within the proposed statewide NEP designation, CPW proposes to release gray wolves obtained from the delisted NRM population (Idaho, Montana, eastern Oregon, eastern Washington, Wyoming) at multiple sites west of the Continental Divide. Individual release sites will be located on private or State lands with high habitat suitability and low wolf–livestock conflict risk based on models developed by Ditmer et al. (2022). All release sites will be located west of the Continental Divide

(Colorado Revised Statute 33–2–105.8), and north of U.S. Highway 50 (figure 3). CPW proposes to release a total of 10 to 15 wolves at a 50:50 sex ratio each year during winter for up to 3 consecutive years, although exact numbers and sex ratios may vary due to factors associated with capture from source populations (CPW 2021b, p. 24). After initial releases are completed, CPW will monitor the success of reintroduction efforts and document wolf abundance and distribution annually to evaluate progress toward meeting State wolf recovery objectives (CPW 2021b, p. 24).

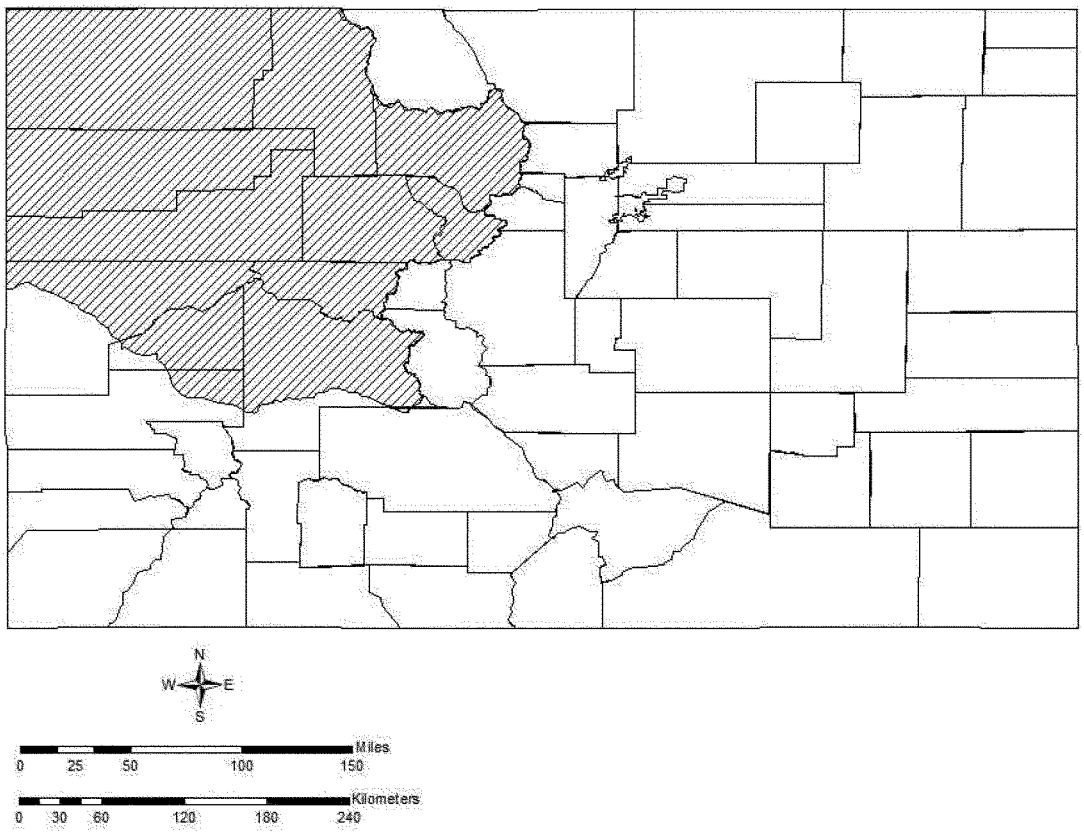

Figure 3. Map of the State of Colorado with county boundaries and the general area (crosshatched) for CPW's proposed initial (1–3 years) release site area for a nonessential experimental population (NEP) of gray wolves.

Release Procedures

CPW officials plan to capture wild gray wolves in cooperating States in the Western United States where wolves are federally delisted (Montana, Idaho, Wyoming, the eastern third of Washington and Oregon, and north-central Utah) using a combination of net gunning, helicopter darting, or trapping. Wolf captures will be conducted in accordance with approved protocols specific to each jurisdiction from which donor wolves are to come. Animals will be a mix of sex and age classes, with a sex ratio of 50:50 preferred, and ideally donor animals will be unrelated and of dispersing age (2 years and older). Each wolf selected for transport will be photographed, examined to evaluate condition and to obtain biological measurements and samples, tested for diseases, vaccinated for a wide variety of diseases, and treated for internal and external parasites. Additionally, wolves will be fitted with either a global positioning system (GPS) or a very high frequency (VHF) radio transmitter as well as other markers to assist with individual identification. Captured animals will be transported to Colorado in large, aluminum crates (similar to those used for wolf reintroduction in the NRM) by aircraft, ground transportation, or a mix of techniques, with a goal of releasing captured animals as quickly as possible to minimize time in captivity and capture-related stress. All animals will be ''hard released'' (released shortly after transport to reintroduction sites with no preconditioning; CPW 2021b, pp. 19–21) during winter (November through March), with no acclimation time between capture, transport, and release. The Final Report on Wolf Restoration Logistics Recommendations developed by the Colorado Wolf Restoration and Management Plan Technical Working Group (CPW 2021b, entire) provides additional details regarding the proposed release procedures.

Reintroduction Site Management

As noted in the *Proposed Reintroduction Areas and Release Sites* and *Release Procedures* sections above, the CPW plans to ''hard release'' gray wolves on State or private lands within a discrete release area (figure 3, above). Given that gray wolves released in this manner are more likely to disperse immediately from the release site rather than remain together at the site (CPW 2021b, entire), CPW does not plan to implement any special management practices at individual release sites. For additional information, please see the State of Colorado's Final Report on Wolf Restoration Logistics Recommendations (CPW 2021b, entire).

How will the NEP further the conservation of the species?

Under 50 CFR 17.81(b), before authorizing the release as an experimental population, the Service must find by regulation that such release will further the conservation of

the species. We explain our rationale for making our finding below. In making such a finding, we must consider effects on donor populations, the likelihood of establishment and survival of the experimental population, the effects that establishment of the experimental population will have on recovery of the species, and the extent to which the experimental population will be affected by Federal, State, or private activities.

Effects on Wild Populations

Our regulations at 50 CFR 17.81 require that we consider any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere. The preferred donor population for the proposed reintroduction of gray wolves to Colorado is the delisted NRM population, found in Idaho, Montana, eastern Oregon, eastern Washington, and Wyoming. Gray wolves in these States are managed by State fish and wildlife agencies and Tribes. These wolves are an appropriate source for the Colorado reintroduction because of similarities in habitat and preferred prey; at least one member of the current pack in Colorado dispersed from the NRM population; and the NRM population reached numerical, spatial, and temporal recovery goals by the end of 2002 (Service 2020, p. 15; see the *Recovery Efforts to Date* section, above). The NRM wolf population continues to demonstrate stable to slightly increasing demographic trends with an estimated 1,543 wolves in Idaho as of August 2021 and slightly over 1,850 wolves in California, Montana, Oregon, Washington, and Wyoming at the end of 2021 (CDFW 2021, entire; ODFW 2022, p. 4; Parks et al. 2022, pp. 9–10; WDFW et al. 2022, p. 13; WGFD et al 2022, p. 3). Further, the NRM population is part of a larger metapopulation of wolves that encompasses all of Western Canada (Service 2020, p. 29). Given the demonstrated resilience and recovery trajectory of the NRM population and limited number of animals that will be collected, we expect negative impacts to the donor population to be negligible.

If donor wolves from the Western United States are not available, another possible source of gray wolves for the Colorado reintroduction may be from the wolf population in the western Great Lake States of Michigan, Minnesota, or Wisconsin. Wolves in Minnesota are currently listed as threatened under the Act, while wolves in Michigan and Wisconsin are listed as endangered. The Western Great Lakes region has nearly 4,400 wolves (Michigan Department of Natural Resources 2022, pp. 19–21; Minnesota Department of Natural Resources 2021, unpaginated; Wisconsin Department of Natural Resources 2022, p. 4) and are part of a larger metapopulation of wolves that extends into central and eastern Canada. As a result, the capture, transport, and reintroduction to Colorado of approximately 30 to 45 gray wolves over a 2-to-3-year period would have little to no effect on the wolf population in the western Great Lakes States of Michigan, Minnesota, or Wisconsin.

Likelihood of Population Establishment and Survival

In our findings for designation of an NEP, we must consider if the reintroduced population will become established and survive in the foreseeable future. In this section of the preamble, we address the likelihood that populations introduced into the proposed NEP will become established and survive. In defining the experimental population boundary, we attempted to encompass the area where the population is likely to become established in the foreseeable future. The term ''foreseeable future'' appears in the Act in the statutory definition of ''threatened species.'' However, the Act does not define the term ''foreseeable future.'' Similarly, our implementing regulations governing the establishment of an NEP under section 10(j) of the Act use the term ''foreseeable future'' (50 CFR 17.81(b)(2)) but do not define the term. However, our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term foreseeable future extends only so far into the future as we can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. While we use the term ''foreseeable future'' here in a different context (to determine the likelihood of population establishment and to establish boundaries for identification of the experimental population), we apply a similar conceptual framework. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant effects of release and management of the species and to the species' likely responses in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

For the purposes of this proposed rule, we define the foreseeable future for our evaluation of the likelihood of survival and establishment as approximately 10 years, the time horizon within which we can reasonably forecast population expansion of gray wolves in Colorado given the results of previous reintroduction efforts of gray wolves in the NRM. This timeframe is also similar to the timeframe for the expansion of wolves from the NRM into portions of the currently listed 44-State entity in California, Colorado, Oregon, and Washington (Service 2020, p. 28).

In evaluating the likelihood of establishment and survival of this proposed NEP in the foreseeable future, we considered the extent to which causes of extirpation in the NEP area have been addressed, habitat suitability and prey availability within the NEP area, and existing scientific and technical expertise and experience with reintroduction efforts. As discussed below, we expect that gray wolves will become established during this time span, given the species' adaptability and dispersal ability.

Addressing Causes of Extirpation Within the Experimental Population Area

Investigating the causes for the extirpation of gray wolves is necessary to understand whether we are sufficiently addressing threats to the species in the proposed NEP so that reintroduction efforts are likely to be successful. The International Union for the Conservation of Nature's Guidelines for Reintroduction and Other Conservation Translocations (2013, p. 4) identifies several criteria to consider prior to undertaking a reintroduction, including ''strong evidence that the threat(s) that caused any previous extinction have been correctly identified and removed or sufficiently reduced.'' Wolves depend on abundant prey (primarily ungulates) and can successfully colonize and occupy a wide range of habitats as long as human-caused mortality is adequately managed (Mech 2017, pp. 312–315). Historical wolf declines in Colorado resulted from purposeful efforts to eradicate the species by State and Federal authorities, primarily due to conflicts with domestic livestock production (Service 2020, pp. 9–14; see *Habitat Use* and *Causes of Decline and Threats* sections, above, for additional information). In 2004, CPW created a Wolf Management Working Group, largely in response to dispersal of wolves from the NRM population to

Colorado and other western States. The working group developed a series of recommendations for wolf management in Colorado, including recognition of the ecological value of wolves and an intent to accept their presence in Colorado (Colorado Wolf Management Working Group 2004, p. 3). The recommendations of the Wolf Management Working Group were formally adopted by the Colorado Wildlife Commission in 2005 and were reaffirmed by the Colorado Parks and Wildlife Commission in 2016 (85 FR 69778, November 3, 2020; p. 69837).

Gray wolves are currently classified as an endangered species by the State of Colorado and can be taken only in self-defense. The State of Colorado expanded its conservation efforts for gray wolves through the passage of Proposition 114 (now codified as Colorado Revised Statute 33–2–105.8), which directs the CPW Commission to take the steps necessary to reintroduce gray wolves to lands west of the Continental Divide by December 23, 2023. Colorado Revised Statute 33–2–105.8 calls for the development and implementation of a Colorado Wolf Restoration and Management Plan, which is expected by late 2023. The plan follows a phased approach whereby the conservation status of gray wolves is linked with numerical and temporal population targets (CPW 2022a, p. 2). For additional information, please see CPW 2022a (entire). Purposeful eradication is no longer a tool used for wolf management. Based on the elimination of purposeful eradication, and the fact that gray wolves are protected under State and Federal laws, we do not anticipate the original cause of wolf extirpation from Colorado to be repeated.

Habitat Suitability/Prey Availability

Excluding occasional dispersing wolves and a single group of at least seven wolves presently in north-central Colorado, large blocks of gray wolf habitat in the central and southern Rocky Mountains are not currently occupied by gray wolves. Models developed to assess habitat suitability and the probability of wolf occupancy indicate that Colorado contains adequate habitat to support a population of gray wolves, although the number of wolves that the State could support varies among the models. One model estimated that the State could support between 407 and 814 wolves based on prey and habitat availability (Bennett 1994, pp. 112, 275–280).

Carroll et al. (2003, entire) examined multiple models to evaluate suitable wolf habitat, occupancy, and the probability of wolf persistence given various landscape changes and potential increases in human density in the southern Rocky Mountains, which included portions of southeastern Wyoming, Colorado, and northern New Mexico. Using a resource selection function (RSF) model developed for wolves in the Greater Yellowstone Ecosystem and projecting it to Colorado, Carroll et al. (2003, pp. 541–542) identified potential wolf habitat across north-central and northwest Colorado and the southwestern part of the State. RSF model predictions indicate that Colorado could support an estimated 1,305 wolves with nearly 87 percent of wolves occupying public lands in the State. Carroll et al. (2003, entire) also used a dynamic model that incorporated population viability analysis to evaluate occupancy of gray wolves and persistence based on current conditions as well as potential changes resulting from increased road and human densities in the future. The dynamic model based on current conditions predicted similar distribution and wolf population estimates as the RSF model; however, as predicted, as road and human densities increased in Colorado, the availability of suitable habitat and the estimated number of wolves that habitat could support declined (Carroll et al. 2003, pp. 541–543).

An analysis similar to that of Carroll et al. (2003, entire) was conducted for the entirety of the Western United States and indicated that high-quality wolf habitat exists in Colorado and Utah, but that wolves recolonizing Colorado and Oregon would be most vulnerable to landscape changes because these areas lack, and are greater distances from, large core refugia (Carroll et al. 2006, pp. 33–36). The authors proposed that habitat improvements, primarily in the form of road removal or closures, could mitigate these effects (Carroll et al. 2006, p. 36). Switalski et al. (2002, pp. 12–13) and Carroll et al. (2003, p. 545) also cautioned that model predictions may be inaccurate because they did not account for the presence of livestock and the potential use of lethal removal to mitigate conflicts, which may affect the likelihood of establishment of gray wolves as well as their year-to-year survival and distribution on the landscape.

Wolves can successfully occupy a wide range of habitats provided adequate prey exists (Mech 2017). Wolves in the Western United States rely on habitats containing large prey such as mule deer, elk, and moose (Smith et al. 2010, entire). CPW manages wild ungulate populations, such as elk and mule deer, using herd management plans, which establish population objective minimums and maximums for each ungulate herd in the State (CPW 2020, entire). The herd management plans consider both biological and social factors when setting herd objective ranges (CPW 2020, entire). Similar to mule deer populations in other western States, mule deer in Colorado have declined due to a multitude of factors since the 1970s to a statewide population estimate of 433,100 animals in 2018, which was well below the minimum statewide population objective of 500,450 (CPW 2020, entire). In 2018, of 54 mule deer herds in the State, 23 were below their population objective minimum with the western part of the State being the most affected. In contrast, elk populations in Colorado were stable in 2018 with a winter population estimate of 287,000 elk (CPW 2020, entire). Although 22 of 42 elk herds are above the maximum population objective, the ratio of calves per 100 cows (a measure of overall herd fitness) has declined in some southwestern herd units, and research has been initiated to determine potential causes. Moose are not native to Colorado, so to create hunting and wildlife viewing opportunities, CPW transplanted moose to the State beginning in 1978 and has since transplanted moose on four other occasions through 2010. In 2018, the moose population was estimated at 3,200 animals and continues to increase as moose expand into new areas of the State.

In summary, while deer and elk numbers are down from their peak populations in some parts of Colorado, they still number in the hundreds of thousands of individuals, and the State is actively managing populations to meet objectives (CPW 2020, entire). In addition, as of the latest estimates, elk numbers exceed their population objectives in 22 of 42 herds (CPW 2020, p. 9). Introduced moose provide an additional potential food resource for wolves in some parts of the State. Therefore, wolf habitat and prey are suitable and abundant within the proposed NEP area and would support population establishment and survival.

Reintroduction Expertise/Experience/Track Record

Conservation efforts to reintroduce gray wolves to the NRM began in 1995, with the reintroduction of wolves to portions of Idaho and Wyoming. Following their release, wolves rapidly increased in abundance and distribution in the region due to natural reproduction and the availability of

high-quality, suitable wolf habitat in the NRM. Between 1995 and 2008, populations of gray wolves in the NRM increased an average of 24 percent annually, reaching 1,655 wolves by the end of 2008 (Service et al. 2016, table 6b), while total mortality averaged approximately 16 percent annually between 1999 and 2008 (Service et al. 2000–2009, entire). Wolf numbers and distribution in Idaho, Montana, and Wyoming stabilized after 2008 as suitable habitat became increasingly saturated (74 FR 15123, April 2, 2009; p. 15160).

Between 2009 and 2015, Idaho, Montana, and Wyoming began to manage wolves with the objective of reversing or stabilizing population growth while continuing to maintain populations well above Federal recovery targets for the NRM population (depending upon the Federal status of wolves at that time; see 85 FR 69778, November 3, 2020; pp. 69779–69782). During this time period, States began to use public harvest as a management tool to achieve State-specific management objectives. As a result, during those years when legal harvest occurred, total wolf mortality in the NRM increased to an average of 29 percent of the minimum known population (Service et al. 2010–2016, entire), while population growth declined to an average of approximately 1 percent annually (Service et al. 2010–2016, entire). Although this mortality rate was significantly higher than mortality rates during the previous decade, the NRM population demonstrated an ability to sustain itself, consistent with scientific information demonstrating that the species' reproductive and dispersal capacity can compensate for a range of mortality rates (Service 2020, pp. 8–9). As of 2015, the final year of a combined NRM wolf count at the end of federally required post-delisting monitoring in Idaho and Montana, wolves in the NRM remained well above minimum recovery levels with a minimum known population of 1,704 wolves distributed across Idaho, Montana, and Wyoming. An additional 177 wolves were documented in the NRM portions of Oregon and Washington at the end of 2015. Wolves in the NRM continue to remain above minimum recovery levels, demonstrating availability of technical expertise to successfully reintroduce gray wolf populations. For more information regarding the success of reintroduction efforts in the NRM, please see the *Recovery Efforts to Date* section, above.

Based on our demonstrated ability to reintroduce and successfully establish wolves to the NRM that reached recovery goals, the availability of habitat suitability and prey availability in the proposed reintroduction area (see *Habitat Suitability/Prey Availability* section, above), the demonstrated resiliency of gray wolves in the United States, and the ongoing development of a comprehensive Gray Wolf Restoration and Management plan in Colorado, the best available scientific data indicate that the reintroduction of gray wolves into suitable habitat in Colorado supports the likely success of establishment and survival of the reintroduced population, and the proposed experimental population has a high likelihood of becoming established within the foreseeable future.

Effects of the NEP on Recovery Efforts

We are proposing to designate an experimental population of gray wolf in Colorado to support CPW's planned effort to reintroduce gray wolves to the State of Colorado, and to further the conservation of the currently listed 44-State entity. CPW developed a draft Gray Wolf Restoration and Management Plan for the reintroduction and management of gray wolves in the State, with the goal of restoring the species to Colorado in a phased approach to the point where it no longer needs protection under State statute (CPW 2022a, entire). This management plan focuses on the primary threat to gray wolves, which is human-caused mortality (*e.g.,* Fuller et al. 2003, Mech 2017). We anticipate the State's plan will be finalized in the spring of 2023.

As noted in the *Recovery Efforts to Date* section, above, populations of gray wolves in the 44-State listed entity number more than 4,500 individuals and occupy portions of California, Michigan, Minnesota, Oregon, and Washington (Service 2020, pp. 27–28). Although gray wolves are present in Colorado, they do not currently meet our definition of a population. Reintroduction efforts in Colorado will provide additional redundancy for the 44-State listed entity. Redundancy is the ability for the species to withstand catastrophic events, for which adaptation is unlikely, and is associated with the number and distribution of populations. Representation is the ability of a species to adapt to changes in the environment and is associated with its ecological, genetic, behavioral, and morphological diversity. If successful, the reintroduction in the NEP would improve redundancy by increasing the number of populations at the southern extent of the currently occupied range and representation by increasing the ecological diversity of the habitats occupied by the listed entity. For these reasons, reintroduction efforts undertaken by CPW would increase the redundancy and representation, and hence viability, of the currently listed 44-State entity (*e.g.,* Smith et al. 2018).

Previous NEP designations have conserved and recovered gray wolves in other regions of the United States, particularly in the NRM. Additional management flexibility, relative to the mandatory prohibitions covering nonessential experimental species under the Act, is expected to help address local, State, and Tribal concerns about wolf-related conflicts in Colorado, similar to those experienced in other NRM States. Addressing these concerns proactively may result in greater human acceptance of gray wolves and other species of concern. Based on past modeling efforts, it has been estimated that Colorado could biologically support approximately 400 to 1,200 wolves (Bennett 1994, pp. 112, 275–280; Carroll et al. 2006, p. 33), but due to social constraints that could limit the distribution of wolves in the state (Ditmer et al. 2022, p. 12), the total number of wolves Colorado could support may be slightly lower. Nonetheless, this action will contribute to the conservation of the listed entity by increasing redundancy and representation.

Actions and Activities in Colorado That May Affect Introduced Gray Wolves

A large proportion of Colorado is composed of publicly owned Federal lands (approximately 36 percent; Congressional Research Service 2020). Public lands include National Forests, National Parks, National Monuments, and National Wildlife Refuges, which comprise approximately 63 percent of all public lands in Colorado. In addition, the Bureau of Land Management manages approximately 35 percent of public land in Colorado, much of which is located in the western portion of the State where reintroduction efforts for gray wolves will take place (figure 3). Although much of this public land is largely unavailable and/or unsuitable for intensive development and contains an abundance of wild ungulates, livestock grazing does occur on public lands in Colorado, which may increase the potential for mortality of gray wolves from lethal control of chronically depredating packs. However, in both Minnesota and the northern Rocky Mountains, lethal control of depredating wolves has had little effect on wolf distribution and abundance (Service 2020 p. 22; 85 FR 69778, November 3, 2020; p. 69842).

Humans sparsely inhabit most of the NEP area containing suitable habitat for gray wolves. However, the NEP area contains human infrastructure and activities that pose some risk to success of the NEP. Risks include wolves killed as a result of mistaken identity, accidental capture during animal damage control activities, and high-speed vehicular traffic. Human-caused mortality includes both controllable and uncontrollable sources of mortality. Controllable sources of mortality are discretionary, can be limited by the managing agency, and include permitted take, sport hunting, and direct agency control. Sources of mortality that will be difficult to limit, or may be uncontrollable, occur regardless of population size and include things such as natural mortalities, illegal take, and accidental deaths (*e.g.,* vehicle collisions, capture-related mortalities) (85 FR 69778, November 3, 2020). The biggest risks likely include illegal take of wolves and individuals hit by motor vehicles. Accidental mortality caused by vehicle collisions are uncontrollable, but are not anticipated to be a significant cause of mortality. However, if population levels and controllable sources of mortality are adequately regulated, the life-history characteristics of wolf populations provide natural resiliency to high levels of human-caused mortality (85 FR 69778, November 3, 2020). In conjunction with previous reintroduction efforts, implementation of this proposed rule, if finalized would reflect continuing success in recovering gray wolves through longstanding cooperative and complementary programs by a number of Federal, State, and Tribal agencies. In particular, the stakeholder engagement process developed by CPW in support of its Gray Wolf Restoration and Management Plan development is broadly based and includes a diverse array of stakeholders in the State, which has helped to address potential adverse effects to gray wolves through Federal, State, or private actions. Therefore, Federal, State, or private actions and activities in Colorado that are ongoing and expected to continue are not likely to have significant adverse effects on gray wolves within the proposed NEP area.

Experimental Population Regulation Requirements

Our regulations at 50 CFR 17.81(c) include a list of what we should provide in regulations designating experimental populations under section 10(j) of the Act. We explain what our proposed regulations include and provide our rationale for those regulations, below.

Means To Identify the Experimental Population

Our regulations require that we provide appropriate means to identify the experimental population, which may include geographic locations, number of individuals to be released, anticipated movements, and other information or criteria. The proposed Colorado NEP area encompasses the entire State. As discussed below, we conclude that after initial releases, any gray wolves found in Colorado will, with a high degree of likelihood, have originated from and be members of the NEP. However, we recognize that absent identifying tags or collars, it may be very difficult for members of the public to easily determine the origin of any individual gray wolf. Therefore, we propose to use geographic location to identify members of the NEP. As such, any wolf within the State of Colorado will be considered part of the NEP regardless of its origin. Similarly, any wolf outside of the State will take on the status of that location. For example, a wolf moving from Wyoming into Colorado will take on the NEP status, whereas a wolf moving from Colorado into Wyoming will take on a not-listed status, or endangered status if it moves into any other adjacent State.

Although a single pack of wolves occurred in Colorado as of October 2022, this single pack does not constitute a population (see *Historical and Current Range* section, above). While an adult female wolf dispersed from Wyoming to Colorado in 2019 to form half of the first reproductively active pack in the State in recent history, the origins of her mate are unknown. It is likely the male dispersed from the Greater Yellowstone area (approximately 480 kilometers (300 miles) north and east of their current location), but his exact origin is uncertain (CPW 2021a, entire). The mean dispersal distance of male wolves in the NRM is 98.1 km (60 miles) (Jimenez et al. 2017, p. 585). The nearest known pack in Wyoming is more than 200 km (124 miles) from the Colorado border, which is more than two times the average dispersal distance for gray wolves. In addition, gray wolves in most of Wyoming, outside of the wolf trophy game management area, are considered predators and can legally be killed with no limit on such take. Wolf packs are unlikely to persist in portions of Wyoming where they are designated as predatory animals (85 FR 69778, November 3, 2020).

Despite these challenges, it is possible that gray wolves dispersing from the NRM population could successfully enter the NEP. However, these movements would likely be infrequent given the NEP's distance from existing populations, given the difficulty of dispersal across most of Wyoming, and the normal dispersal distances for gray wolves. Additionally, the small numbers of individuals likely to occupy the NEP following the release and the sizable distances between populations makes any potential interaction between individuals or a merging of populations highly unlikely. Further, even if gray wolves from the NRM or other populations were to disperse into the NEP, the presence of one or a few individual dispersing gray wolves would not constitute a population, as described above. Therefore, gray wolves reintroduced into Colorado will be wholly geographically separate from the delisted portion of the NRM population as well as the remainder of the currently listed 44-State entity. Based on this geographic separation, we conclude that any gray wolves found in Colorado after the initial release will, with a high degree of likelihood, be members of the NEP; therefore, we conclude that geographic location is an appropriate means to identify members of the NEP.

As noted in the *Release Procedures* section, above, CPW plans to fit individual animals reintroduced to the proposed Colorado NEP with GPS collars or a mix of GPS and VHF collars, with GPS preferred in the early stages of the reintroduction effort. Reintroduced wolves fitted with radio telemetry collars and other identifiable marks prior to release will enable CPW to determine if animals within Colorado are members of the reintroduced NEP, and not extant wolves from other populations (*e.g.,* the delisted NRM population). However, as reintroduced wolves begin to reproduce and disperse from Colorado packs, wolf abundance and distribution will increase in Colorado and the ability to capture and mark a high proportion of the population will decline. Given the challenges associated with marking a high number of wolves as the population increases and the distance from known packs in Wyoming and other populations of gray wolves, we will consider all gray wolves found in the State of Colorado to be members of the NEP.

Although CPW and the Service determined that there is no existing population of wolves in the proposed NEP area that would preclude reintroduction and establishment of an experimental population in the State (see definition of wolf population in *Historical and Current Range* section, above), both agencies will continue to

monitor for the presence of any naturally recolonizing wolves. If a naturally recolonizing population of wolves is discovered in the proposed Colorado NEP area prior to release, the Service will exclude that geographic area where the natural recolonizing wolves occur from the NEP area to ensure the reintroduced wolves are wholly separate geographically from non-experimental wolves. Any naturally recolonizing population of wolves would be considered endangered under the Act.

Is the Proposed Experimental Population Essential or Nonessential?

When we establish experimental populations under section 10(j) of the Act, we must determine whether or not that population is essential to the continued existence of the species. This determination is based solely on the best scientific and commercial data available. Our regulations (50 CFR 17.80(b)) state that an experimental population is considered essential if its loss would be likely to appreciably reduce the likelihood of survival of that species in the wild. We are proposing to designate the population of gray wolves in Colorado as nonessential for the following reason.

Populations of gray wolves within the 44-State listed entity include the Great Lakes metapopulation and growing populations in California, Oregon, and Washington. Multiple large, growing or stable metapopulations of gray wolves inhabiting separate and ecologically diverse areas ensure that the survival of the listed species does not rely on any single population. Therefore, the loss of the Colorado NEP would not be likely to appreciably reduce the likelihood of survival of the species in the wild, and we find that the Colorado NEP is not essential to the continued existence of the species.

Management Restrictions, Protective Measures, and Other Special Management

We have included management measures to address potential conflicts between wolves and humans and wolves and domestic animals. Management of the nonessential experimental population would allow reintroduced wolves to be hazed, killed, or relocated by the Service or our designated agent(s) for domestic animal depredations. Under special conditions, the public could harass or kill wolves attacking livestock (defined below). We have also requested input on whether to allow lethal management of gray wolves that are having a significant impact to ungulate populations. If allowed for the purpose of ungulate management, authorization for removal of wolves would require a science-based determination that an unacceptable impact to a wild ungulate herd has occurred and that removal of gray wolves would not impede wolf conservation.

As the lead agency for reintroduction efforts for gray wolves in Colorado, CPW will coordinate with the Service on releases, monitoring, and other tasks as needed to ensure successful reintroduction of the species to the State. Definitions pertaining to special management provisions are listed below:

Designated agent—Federal, State, or Tribal agencies authorized or directed by the Service may conduct gray wolf management consistent with this rule.

The State of Colorado and Tribes within the State with wolf management plans also may become designated agents by submitting a request to the Service to establish an MOA under this proposed rule. Once accepted by the Service, the MOA may allow the State of Colorado or Tribes within the State to assume lead authority for wolf conservation and management within their respective jurisdictions and to implement the portions of their State or Tribal wolf management plans that are consistent with this proposed rule. The Service oversight (aside from Service law enforcement investigations) under an MOA is limited to monitoring compliance with this proposed rule, issuing written authorizations for wolf take on reservations without wolf management plans, and an annual review of the State or Tribal program to ensure consistency with this proposed rule. Under either a cooperative agreement or an MOA, no management outside the provisions of this proposed rule is allowed unless additional public comment is solicited and this rule is modified accordingly.

Domestic animals—Animals that have been selectively bred over many generations to enhance specific traits for their use by humans, including for use as pets. This includes livestock (as defined below) and dogs.

Incidental take: Experimental population rules contain specific prohibitions and exceptions regarding the taking of individual animals under the Act. These rules are compatible with most routine human activities in the proposed NEP area (*e.g.,* resource monitoring, invasive species management, and research; see How Will the NEP Further the Conservation of the Species? above). Section 3(19) of the Act defines ''take'' as ''to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.'' ''Incidental take'' is further defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. If we adopt this section 10(j) rule as proposed, management of the NEP would allow employees of the Service and designated agents acting on our behalf to intentionally take gray wolves under certain circumstances. See table 1 below for additional details on incidental take of gray wolves within the proposed NEP area.

Intentional harassment—The deliberate and pre-planned harassment of wolves, including by less-than-lethal munitions that are designed to cause physical discomfort and temporary physical injury but not death.

Interagency consultation—For purposes of section 7(a)(2) of the Act, section 10(j) of the Act and our regulations (at 50 CFR 17.83) provide that nonessential experimental populations are treated as species proposed for listing under the Act except on National Park Service and National Wildlife Refuge System lands, where they are treated as threatened species for the purposes of section 7(a)(2) of the Act. We intend to address our section 7(a)(2) consultation obligations for gray wolves within units of the National Wildlife Refuge system in Colorado through a programmatic intra-Service consultation prior to finalizing this proposed rule and will coordinate with the National Park Service to address section 7(a)(2) obligations on any National Park Service units in Colorado.

In the act of attacking—The actual biting, wounding, grasping, or killing of livestock or dogs, or chasing, molesting, or harassing by wolves that would indicate to a reasonable person that such biting, wounding, grasping, or killing of livestock or dogs is likely to occur at any moment.

Landowner—An owner or lessee of private land, or their immediate family members, or the owner's employees, contractors, or volunteers who are currently employed to actively work on that private land. In addition, the owners (or their employees or contractors) of livestock that are currently and legally grazed on that private land and other leaseholders on that private land (such as outfitters or guides who lease hunting rights from private landowners), are considered landowners on that private land for the purposes of this regulation. Private land, under this proposed rule, also includes all non-Federal land and land within Tribal reservations. Individuals legally

using Tribal lands in the State of Colorado with wolf management plans are considered landowners for the purposes of this proposed rule.

Livestock—Cattle, sheep, pigs, horses, mules, goats, domestic bison, and herding and guarding animals (alpacas, llamas, donkeys, and certain breeds of dogs commonly used for herding or guarding livestock). Livestock excludes dogs that are not being used for livestock guarding or herding.

Livestock Producer—A person that is actively engaged in farming/ranching and that receives a substantial amount of total income from the production of livestock.

Non-injurious—Does not cause either temporary or permanent physical damage or death.

Opportunistic harassment—Harassment without the conduct of prior purposeful actions to attract, track, wait for, or search out the wolf.

Private land—All land other than that under Federal Government ownership and administration and including Tribal reservations.

Problem wolves—Wolves that we or our designated agents confirm to have attacked any other domestic animals twice within a calendar year are considered problem wolves for purposes of agency wolf control actions.

Public land—Federal land such as that administered by the National Park Service, U.S. Fish and Wildlife Service, Bureau of Land Management, USDA Forest Service, Bureau of Reclamation, Department of Defense, or other agencies with the Federal Government.

Public land permittee—A person or that person's employee who has an active, valid Federal land-use permit to use specific Federal lands to graze livestock or operate as an outfitter or guiding business that uses livestock. This definition does not include private individuals or organizations who have Federal permits for other activities on public land such as collecting firewood, mushrooms, antlers, Christmas trees, or logging, mining, oil or gas development, or other uses that do not require livestock. In recognition of the special and unique authorities of Tribes and their relationship with the U.S. Government, for the purposes of this proposed rule, the definition includes Tribal members who legally graze their livestock on ceded public lands under recognized Tribal treaty rights.

Remove—Place in captivity, relocate to another location, or kill.

Research—Scientific studies resulting in data that will lend to enhancement of the survival of gray wolves.

Rule— ''This rule'' in the regulatory text refers to the proposed NEP regulations.

Wounded—Exhibiting scraped or torn hide or flesh, bleeding, or other evidence of physical damage caused by a wolf bite.

TABLE 1—ALLOWABLE FORMS OF TAKE FOR GRAY WOLVES IN THE PROPOSED COLORADO NEP AREA

Take provision	Description of provision in the proposed experimental population rule
Take in defense of human life	Any person may take a wolf in defense of the individual's life or the life of another person. The unauthorized taking of a wolf without demonstration of an immediate and direct threat to human life may be referred to the appropriate authorities for prosecution.
Agency take of wolves determined to be a threat to human life and safety.	The Service, or our designated agents, may promptly remove (that is, place in captivity or kill) any wolf determined by the Service or designated agent to be a threat to human life or safety.
Opportunistic harassment	Anyone may conduct opportunistic harassment of any gray wolf in a non-injurious manner at any time. Opportunistic harassment must be reported to the Service or our designated agent within 7 days.
Intentional harassment	After the Service, or our designated agent, has confirmed wolf activity on private land, on a public land grazing allotment, or on a Tribal reservation, the Service or our designated agent may issue written take authorization valid for not longer than 1 year to any landowner or public land permittee to intentionally harass wolves in a nonlethal, injurious manner. The harassment must occur in the area and under the conditions as specifically identified in the written take authorization. Intentional harassment must be reported to the Service or a designated agent within 7 days.
Taking wolves ''in the act of attacking'' livestock on PRIVATE land.	Consistent with State or Tribal requirements, any landowner may take (injure or kill) a gray wolf in the act of attacking (wounding, harassing, molesting, or killing) livestock or dogs (working or pet) on their private land. Any wolf taken in the act must be reported to the Service or our designated agent within 24 hours. The carcass and surrounding area must not be disturbed in order to preserve physical evidence that the livestock or dogs were recently attacked by a wolf or wolves. The Service or our designated agent must be able to confirm that the livestock or dog were wounded, harassed, molested, or killed by a wolf or wolves. The taking of any wolf without such evidence may be referred to the appropriate authorities for prosecution.
Taking wolves ''in the act of attacking'' livestock on PUBLIC land.	Consistent with State or Tribal requirements, any livestock producer and public land permittee who is legally using public land under a valid Federal land-use permit may take a gray wolf in the act of attacking their livestock on the person's allotment or other area authorized for their use without prior written authorization. The Service or our designated agent must be able to confirm that the livestock or dogs were wounded, harassed, molested, or killed by a wolf or wolves. The carcass of any wolf taken and the area surrounding it should not be disturbed to preserve physical evidence that the take was conducted according to this proposed rule. Any person legally present on public land may immediately take a wolf that is in the act of attacking the individual's stock animal or dog, provided conditions noted in taking of wolves in the act on private land are met. Any take or method of take on public land must be consistent with the rules and regulations on those public lands. Any lethal or injurious take must be reported to the Service or a designated agent within 24 hours.

TABLE 1—ALLOWABLE FORMS OF TAKE FOR GRAY WOLVES IN THE PROPOSED COLORADO NEP AREA—Continued

Take provision	Description of provision in the proposed experimental population rule
Additional taking by private citizens on their PRIVATE LAND.	At the Service's or our designated agents' direction, the Service or designated agent may issue a ''shoot on-sight'' written take authorization of limited duration (45 days or less) to a landowner or their employees to take up to a specified (by the Service or our designated agent) number of wolves on their private land if: (1) The landowner has had at least one depredation by wolves on livestock that has been confirmed by the Service or our designated agent within the last 30 days; and (2) the Service or our designated agent has determined that problem wolves are routinely present on the private land and present a significant risk to the health and safety of livestock; and (3) the Service or our designated agent has authorized lethal removal of wolves from that same private land. These authorizations may be terminated at any time once threats have been resolved or minimized. Any lethal or injurious take must be reported to the Service or a designated agent within 24 hours.
Additional taking by grazing permittees on PUBLIC LAND	At the Service's or our designated agents' direction, the Service or designated agent may issue a ''shoot on-sight'' written take authorization of limited duration (45 days or less) to a public land grazing permittee to take up to a specified (by the Service or our designated agent) number of wolves on that permittee's active livestock grazing allotment if: (1) The grazing allotment has had at least one depredation by wolves on livestock that has been confirmed by the Service or our designated agent within the last 30 days; and (2) the Service or our designated agent has determined that problem wolves are routinely present on that allotment and present a significant risk to the health and safety of livestock; and (3) the Service or our designated agent has authorized lethal removal of wolves from that same allotment. These authorizations may be terminated at any time once threats have been resolved or minimized. Any take or method of take on public land must be consistent with the rules and regulations on those public lands. Any lethal or injurious take must be reported to the Service or a designated agent within 24 hours.
Agency take of wolves that repeatedly depredate livestock.	The Service or our designated agent may carry out harassment, nonlethal control measures, relocation, placement in captivity, or lethal control of problem wolves. The Service or our designated agent will consider: (1) Evidence of wounded livestock, dogs, or other domestic animals, or remains of livestock, dogs, or domestic animals that show that the injury or death was caused by wolves, or evidence that wolves were in the act of attacking livestock, dogs, or domestic animals; (2) the likelihood that additional wolf-caused losses or attacks may occur if no control action is taken; (3) evidence of unusual attractants or artificial or intentional feeding of wolves; and (4) evidence that animal husbandry practices recommended in approved allotment plans and annual operating plans were followed.
Incidental take	Any person may take a gray wolf if the take is incidental to an otherwise lawful activity, if reasonable due care was practiced to avoid such taking, and such taking was reported within 24 hours. (The Service may allow additional time if access is limited.) Shooting a wolf as a result of mistaking it for another species is not considered accidental and may be referred to the appropriate authorities for prosecution.
Permits for recovery actions that include take of gray wolves.	Permits are available and required, except as otherwise allowed by this proposed rule, for scientific purposes, enhancement of propagation or survival, educational purposes, or other purposes consistent with the Act (50 CFR 17.32).
Additional taking provisions for agency employees and our designated agent.	Any Service employee or our designated agent may take a gray wolf from the NEP: (1) For take related to the release, tracking, monitoring, recapture, and management for the NEP; (2) to aid or euthanize sick, injured, or orphaned wolves or transfer to a licensed veterinarian for care; (3) to dispose of a dead specimen; (4) to salvage a dead specimen that may be used for scientific study; (5) to aid in law enforcement investigations involving wolves (collection of specimens for necropsy, etc.); or (6) to remove wolves with abnormal physical or behavioral characteristics, as determined by the Service or our designated agent, from passing on or teaching those traits to other wolves.

Review and Evaluation of the Success or Failure of the NEP

CPW plans to use radio transmitters, remote cameras, surveys of roads and trails to document wolf sign, and other monitoring techniques to document wolf reproductive success, abundance, and distribution in Colorado post-release. This information will be summarized in an annual report by CPW that describes wolf conservation and management activities that occurred in Colorado each calendar or biological year to evaluate progress toward achieving the State of Colorado's downlisting and recovery criteria. The annual report will be due annually to the Service by June 30th and posted on CPW's website. The annual report may include, but not be limited to: post-release wolf movements and behavior; wolf minimum counts or abundance estimates; reproductive success and recruitment; territory use and distribution; cause-specific wolf mortalities; and a summary of wolf conflicts and associated management activities to minimize wolf conflict risk. For additional details, please see CPW 2021b (entire) and the *Release Procedures* section, above.

The Service will evaluate Colorado's wolf reintroduction and management program in an annual summary report. Additionally, 5 years after the last reintroductions are completed, the

Service will evaluate whether the wolf population is meeting the State's recovery goals and conservation of the species. During this evaluation, we will assess the reintroduction program and coordinate with CPW if it is determined that modifications to reintroduction protocols are necessary. Five years after the reintroductions is a reasonable timeline for this evaluation because it would mirror the minimum post-delisting monitoring period used to evaluate the success of management programs after species have achieved recovery. It would also provide a suitable period to evaluate wolf population growth and abundance in order to assess progress toward achieving the State of Colorado's recovery goals, while concurrently minimizing wolf-related conflicts in the State. If modifications to wolf monitoring and management activities are needed, the Service will coordinate closely with CPW to ensure progress toward achieving recovery goals while concurrently minimizing wolf-related conflicts in Colorado.

Other Considerations

Above, we considered potential effects of the release on wild populations of the delisted NRM potential donor populations. Although not required under our regulations, we also considered potential effects of the release on the Mexican wolf. The number of gray wolves in Colorado could continue to grow and expand, which could increase the likelihood that gray wolves in Colorado disperse far enough south to encounter Mexican wolves. The timing and extent of any potential future contact are uncertain and difficult to project, but if contact were to occur, interbreeding could be a concern for the Mexican wolf, depending on its state of recovery at the time. If gray wolves come to occupy Mexican wolf recovery areas, these physically larger wolves are likely to dominate smaller Mexican wolves and quickly occupy breeding positions, as will their hybrid offspring. Hybrid population(s) thus derived will not contribute towards recovery because they will significantly threaten integrity of the listed entity (Odell et al. 2018, entire). However, potential inbreeding would be unlikely to have significant effects on the gray wolf, given the narrow geographic range in which such contact would likely occur relative to the species' overall range.

Findings

Based on the best scientific and commercial data available (in accordance with 50 CFR 17.81), we find that releasing gray wolves into the State of Colorado with the regulatory provisions in this proposed rulemaking will further the conservation of the species in the currently listed 44-State entity. The NEP status is appropriate for the introduced population; the potential loss of the experimental population would not appreciably reduce the likelihood of the survival of the species in the 44-State listed entity since more than 4,600 wolves are distributed across at least 6 different States in the Western United States and the western Great Lakes.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order (E.O.) 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this proposed rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The Executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 601 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We certify that, if finalized, this proposed rule would not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

This proposed rule is modeled after previous NEP designations in Idaho, Montana, and Wyoming that contributed to the recovery of gray wolves while allowing for the control and management of wolves that caused conflicts and economic impacts on livestock producers. The majority of gray wolves in the Western United States are part of the NRM population, which is no longer protected under the Act. Despite increased incidences of human-caused mortality in the NRM population after delisting, this population is stable to increasing, and wolves from this population have readily dispersed to other States, including Colorado (Service 2020, pp. 14–19; 85 FR 69778, November 3, 2020).

The State of Colorado has recognized the utility of NEP designations in reintroducing gray wolves while addressing the concerns of local, State, and Tribal governments, as well as private entities, and engaged in an extensive stakeholder outreach process to develop a State management plan with broad-based support (CPW 2022b). This process, which involved a Stakeholder Advisory Group comprising a diverse array of stakeholders such as agricultural producers, hunting guides, wolf conservation advocates, and other interests and a Technical Working Group comprising gray wolf experts, assisted in the formulation of an impact-based management matrix and the overall Colorado Gray Wolf Management and Restoration Plan.

The reduced restrictions on taking problem wolves (see definition above under *Management Restrictions, Protective Measures, and Other Special Management*) in this proposed rule, relative to endangered species that receive the full protections of sections 7 and 9 of the Act, will make the management of wolves easier and more effective, thus reducing the economic losses that result from depredation of wolves on livestock and guard animals and dogs. Furthermore, a State program to compensate livestock producers who experience livestock losses caused by wolves is being developed and will be implemented upon CPW Commission

approval. As a point of reference, compensation for livestock losses in Montana in 2021 totaled $103,815.95 (Parks et al. 2022, p. 19), and compensation in Wyoming for the same period totaled $208,124.00 (WGFD et al. 2022, pp. 23–24). The potential effect on livestock producers in western States is very small, but more flexible wolf management will provide benefits to stakeholders and livestock producers by providing options to protect assets.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(1) This proposed rule would not ''significantly or uniquely'' affect small governments. We have determined and certify pursuant to the Unfunded Mandates Reform Act, that, if adopted, this rulemaking would not impose a cost of $100 million or more in any given year on local or State governments or private entities. A small government agency plan is not required. Small governments would not be affected because the proposed NEP designation would not place additional requirements on any city, county, or other local municipalities.

(2) This proposed rule would not produce a Federal mandate of $100 million or greater in any year (*i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act). This proposed NEP designation for gray wolves in Colorado would not impose any additional management or protection requirements on the States or other entities.

Takings (E.O. 12630)

In accordance with Executive Order 12630, this proposed rule will not have significant implications concerning taking of private property by the Federal Government. This proposed rule will substantially advance a legitimate government interest (conservation of a listed species) and will not present a bar to all reasonable and expected beneficial use of private property. Because of the regulatory flexibility provided by NEP designations under section 10(j) of the Act, we believe that the increased flexibility in this proposed rule and State or Tribal lead wolf management will reduce regulatory restrictions on private lands and will result in minor positive economic effects for a small percentage of livestock producers.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, this proposed rule will not have significant federalism effects. This proposed rule will not have substantial direct effects on the States, on the relationship between the States and the Federal Government, or on the distribution of power and responsibilities among the various levels of government. CPW requested that we undertake this rulemaking to support the conservation of wolves in the 44-State entity and in Colorado and to provide increased take authority to resolve wolf conflicts, which we believe will assist with conservation of the species. No intrusion on State policy or administration is expected; roles or responsibilities of Federal or State governments will not change; and fiscal capacity will not be substantially affected. This proposed rule operates to maintain the existing relationship between the States and the Federal Government and is being undertaken at the request of CPW. We have endeavored to cooperate with CPW and other State agencies in the preparation of this proposed rule. Therefore, this proposed rule does not have significant federalism effects or implications to warrant the preparation of a federalism assessment pursuant to the provisions of Executive Order 13132.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988 (February 7, 1996, 61 FR 4729), the Office of the Solicitor has determined that this proposed rule would not unduly burden the judicial system and would meet the requirements of sections (3)(a) and (3)(b)(2) of the Order.

Paperwork Reduction Act

This proposed rule contains existing and new collections of information that require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). 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. We will ask OMB to review and approve the new information collection requirements contained in this rulemaking related to the establishment of an NEP of the gray wolf (*Canis lupus*) in the State of Colorado, under section 10(j) of the ESA. OMB has previously approved the information collection requirements associated with permitting requirements associated with native endangered and threatened species, and experimental populations, and assigned OMB Control Number 1018–0094, ''Federal Fish and Wildlife Permit Applications and Reports—Native Endangered and Threatened Species; 50 CFR parts 10, 13, and 17'' (expires January 31, 2024).

Experimental populations established under section 10(j) of the Act, as amended, require information collection and reporting to the Service. We will collect information on the gray wolf NEP to help further the recovery of the species and to assess the success of the reintroduced populations. There are no forms associated with this information collection. The respondents notify us when an incident occurs, so there is no set frequency for collecting the information. Other Federal agencies provide us with the vast majority of the information on experimental populations under cooperative agreements for the conduct of the recovery programs. However, the public also provides some information to us. The proposed new information collection requirements identified below require approval by OMB:

1. *Appointment of designated agent*—A designated agent is an employee of a Federal, State, or Tribal agency that is authorized or directed by the Service to conduct gray wolf management. A prospective designated agent submits a letter to the Service requesting designated agent status. The letter includes a proposal for the work to be completed and resume of qualifications for the work they wish to perform. The Service will then respond to the requester with a letter authorizing them to complete the work.

2. *Request for written take authorization*—After receiving confirmation of wolf activity on private land, on a public land grazing allotment, or on a Tribal reservation, we or the designated agent may issue written take authorization valid for not longer than 1 year, with appropriate conditions, to any landowner or public land permittee to intentionally harass wolves. The harassment must occur in the area and under the conditions as specifically identified in the written take authorization.

3. *Request for ''shoot-on-sight'' written take authorization*—The Service or designated agent may issue a ''shoot-on-sight'' written take authorization of limited duration (45 days or fewer) to a landowner or their employees, or to a public land grazing permittee, to take up to a specified (by the Service or our designated agent) number of wolves.

4. *Reporting requirements*—Except as otherwise specified in this proposed rule or in an authorization, any take of a gray wolf must be reported to the Service or our designated agent as follows (additional reasonable time will be allowed if access to the site is limited):

a. *Lethal take* must be reported within 24 hours.

b. *Opportunistic or intentional harassment* must be reported within 7 days.

c. Gray wolves *taken into captivity for care or to be euthanized* must be reported to the Service within 24 hours, or as soon as reasonably appropriate.

5. *Annual report*—To evaluate progress toward achieving State downlisting and delisting criteria, the Service will summarize monitoring information in an annual report by Colorado Parks and Wildlife. The report, due by June 30 of each year, will describe wolf conservation and management activities that occurred in Colorado each calendar or biological year. The annual report may include, but not be limited to:

- post-release wolf movements and behavior;
- wolf minimum counts or abundance estimates;
- reproductive success and recruitment;
- territory use and distribution;
- cause-specific wolf mortalities; and
- a summary of wolf conflicts and associated management activities to minimize wolf conflict risk.

6. *Recovery or reporting of dead individuals and specimen collection from experimental populations*—This type of information is for the purpose of documenting incidental or authorized scientific collection. Specimens are to be retained or disposed of only in accordance with directions from the Service. Most of the contacts with the public deal primarily with the reporting of sightings of experimental population animals, or the inadvertent discovery of an injured or dead individual.

We will use the information described above to assess the effectiveness of control activities and develop means to reduce problems with livestock where depredation is a problem. Service recovery specialists use the information to determine the success of reintroductions in relation to established recovery plan goals for the threatened and endangered species involved.

Title of Collection: Endangered and Threatened Wildlife, Experimental Populations—Colorado Gray Wolf (50 CFR 17.84).

OMB Control Number: 1018–New.

Form Numbers: None.

Type of Review: New.

Respondents/Affected Public: Individuals; private sector; and State/local/Tribal governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually for annual report and on occasion for other requirements.

Total Estimated Annual Nonhour Burden Cost: None.

Requirement	Number of annual respondents	Number of annual responses each	Total annual responses	Average completion time	Total annual burden hours
Appointment of Designated Agent					
Individuals	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Private Sector	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Request for Written Take Authorization					
Individuals	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Private Sector	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Request for "Shoot-on-Sight" Written Take Authorization					
Individuals	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Private Sector	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Reporting Requirement—Lethal Take					
Individuals	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Private Sector	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Reporting Requirement—Opportunistic or Intentional Harassment					
Individuals	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Private Sector	1	1	1	30 min (reporting) 30 min (recordkeeping)	1

Requirement	Number of annual respondents	Number of annual responses each	Total annual responses	Average completion time	Total annual burden hours
State/Local/Tribal Gov't	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Reporting Requirement—Captivity for Care or to be Euthanized					
Individuals	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Private Sector	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Annual Report					
Individuals	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Private Sector	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Notification—Recovery or Reporting of Dead Specimen and Specimen Collection					
Individuals	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Private Sector	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
State/Local/Tribal Gov't	1	1	1	30 min (reporting) 30 min (recordkeeping)	1
Totals:	24		24		24

Send your written comments and suggestions on this information collection by the date indicated in **DATES** to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB/PERMA (JAO), 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail); or by email to *Info_Coll@fws.gov.* Please reference OMB Control Number 1018–Gray Wolf in the subject line of your comments.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relatives with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments; 65 FR 67249, November 9, 2000), and the Department of the Interior's manual at 512 DM 2, we have considered possible effects of this proposed this rule on federally recognized Indian Tribes. We notified the Native American Tribes within and adjacent to the NEP about this proposed rule. We invited the two Colorado Tribes to serve as cooperating agencies in the development of the draft environmental impact statement (DEIS) and offered government-to-government consultation. We communicated with Indian Tribes in Colorado, eastern Utah, and portions of northern Arizona and northern New Mexico through written contact, including informational mailings from the Service and email notifications to attend video and teleconference informational sessions and public hearings and to comment on the DEIS and proposed rule. We invited all Tribes in Colorado areas surrounding the NEP in Utah, Arizona, and New Mexico to request government-to-government consultation under Secretarial Order 3206. We held an informational webinar for all Tribes, to discuss our proposed rule. If future activities resulting from this proposed rule may affect Tribal resources, the Service will communicate and consult on a government-to-government basis with any affected Native American Tribes in order to find a mutually agreeable solution.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

In compliance with all provisions of the National Environmental Policy Act of 1969 (NEPA), we are in the process of analyzing the impacts of this proposed rule. On July 21, 2022, we published a document in the **Federal Register** that announced our intent to prepare an environmental impact statement (EIS) to evaluate the potential environmental impacts of issuing a proposed rule as requested by the State of Colorado for its reintroduction and management of the gray wolf (87 FR 43489). We accepted comments until August 22, 2022. We have now completed a draft EIS (DEIS), which is available for public review and comment as described above in **DATES** and **ADDRESSES**. The DEIS evaluates options for a regulatory framework, including a rule consistent with section 10(j) of the Act, for the reintroduction and management of gray wolves in part of the species' historical range in Colorado. The DEIS analyzes potential environmental impacts that may result from two action alternatives and the no-action alternative and includes relevant and reasonable measures that could avoid or mitigate potential impacts.

Based on any new information resulting from public comment received on the DEIS or on this proposed rule, we will determine if there are any significant impacts or effects that would be caused by implementing this proposed rule. All appropriate NEPA analysis will be finalized before this proposed rule is finalized.

Energy Supply, Distribution, or Use (E.O. 13211)

Executive Order 13211 requires agencies to prepare statements of energy effects when undertaking certain actions. This proposed rule is not expected to significantly affect energy supplies, distribution, and use. Therefore, this action is not a significant energy action, and no statement of energy effects is required.

Clarity of This Regulation (E.O. 12866)

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the proposed rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

References Cited

A complete list of references cited in this rulemaking is available on the internet at *https://www.regulations.gov* and upon request from the Colorado Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Colorado Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Plants, Reporting and recordkeeping requirements, Transportation, Wildlife.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.84 by adding paragraph (a) to read as follows:

§ 17.84 Special rules—vertebrates.

(a) Wolf, gray (*Canis lupus*). (1) The regulations in this paragraph (a) set forth the provisions of a rule to establish an experimental population of gray wolves. The Service finds that establishment of an experimental population of gray wolves as described in this paragraph (a) will further the conservation of the species.

(2) *Determinations.* The gray wolves identified in paragraph (a)(3) of this section constitute a nonessential experimental population (NEP) under § 17.81(c)(2). These wolves will be managed in accordance with the provisions of this rule in the boundaries of the NEP area within the State of Colorado or any Tribal reservation found in the State that has a wolf management plan, as further provided in this rule. Furthermore, the State of Colorado or any Tribe within the State that has a wolf management plan consistent with this rule can request the Service to assume the lead authority for wolf management under this rule within the borders of the NEP area in the State or reservation as set forth in paragraph (a)(10) of this section.

(3) *Designated area.* The site for this experimental population is within the historical range of the species. The Colorado NEP area encompasses the entire State of Colorado. All wolves found in the wild within the boundary of the Colorado NEP area are considered nonessential experimental animals. Any wolf that is outside the Colorado NEP area, with the exception of wolves in the States of Idaho, Minnesota, Montana, Wyoming, and portions of the States of Oregon, Washington, and Utah, is considered endangered. Any wolf originating from the Colorado NEP area and dispersing beyond its borders may be managed by the wolf management regulations established for that area or may be returned to the Colorado NEP area.

(4) *Definitions.* Key terms used in this rule have the following meanings:

Designated agent—An employee of a Federal, State, or Tribal agency that is authorized or directed by the Service to conduct gray wolf management consistent with this rule.

Domestic animals—Animals that have been selectively bred over many generations to enhance specific traits for their use by humans, including for use as pets. This term includes livestock and dogs.

Intentional harassment—The deliberate and pre-planned harassment of wolves, including by less-than-lethal munitions that are designed to cause physical discomfort and temporary physical injury but not death.

In the act of attacking—The actual biting, wounding, grasping, or killing of livestock or dogs or chasing, molesting, or harassing by wolves that would indicate to a reasonable person that such biting, wounding, grasping, or killing of livestock or dogs is likely to occur at any moment.

Landowner—Any of the following entities:

(i) An owner or lessee of private land, or their immediate family members, or the owner's employees, contractors, or volunteers who are currently employed to actively work on that private land.

(ii) The owners, or their employees or contractors, of livestock that are currently and legally grazed on private land and herding and guarding animals (such as alpacas, llamas, or donkeys) and other leaseholders on private land, such as outfitters or guides who lease hunting rights from private landowners.

(iii) Individuals legally using Tribal lands in the State of Colorado with wolf management plans.

Livestock—Cattle, sheep, pigs, horses, mules, goats, domestic bison, and herding and guarding animals (alpacas, llamas, donkeys, and certain breeds of dogs commonly used for herding or guarding livestock). Livestock excludes dogs that are not being used for livestock guarding or herding.

Livestock Producer—A person that is actively engaged in farming/ranching and that receives a substantial amount of total income from the production of livestock.

Non-injurious—Does not cause either temporary or permanent physical damage or death.

Opportunistic harassment—Harassment without the conduct of prior purposeful actions to attract, track, wait for, or search out the wolf.

Private land—All land other than that under Federal Government ownership and administration and including Tribal reservations.

Problem wolves—Wolves that we or our designated agent confirm to have attacked any other domestic animals on private land twice within a calendar year.

Public land—Federal land such as that administered by the Service,

National Park Service, Bureau of Land Management, Bureau of Reclamation, U.S. Department of Agriculture's Forest Service, Department of Defense, or other agencies within the Federal Government.

Public land permittee—A person or that person's employee who has an active, valid Federal land-use permit to use specific Federal lands to graze livestock or operate an outfitter or guiding business that uses livestock and Tribal members who legally graze their livestock on ceded public lands under recognized Tribal treaty rights. This term does not include private individuals or organizations who have Federal permits for other activities on public land such as collecting firewood, mushrooms, antlers, or Christmas trees, logging, mining, oil or gas development, or other uses that do not require livestock.

Remove—Place in captivity, relocate to another location, or kill.

Research—Scientific studies resulting in data that will lend to enhancement of the survival of the gray wolf.

Rule—The regulations in this paragraph (a).

Wounded—Exhibiting scraped or torn hide or flesh, bleeding, or other evidence of physical damage caused by a wolf bite.

(5) *Allowable forms of take of gray wolves.* Take of gray wolves in the experimental population is allowed without a permit only in these specific circumstances: opportunistic harassment; intentional harassment; take in defense of human life; take to protect human safety; take by designated agents to remove problem wolves; incidental take; take under any previously authorized permits issued by the Service; take per authorizations for employees of designated agents; take for research purposes; and take to protect livestock animals and dogs. Consistent with the requirements of the State or Tribe, take is allowed on private land. Take on public land is allowed as specified in paragraph (a)(5)(iv)(A) of this section. Other than as expressly provided by the regulations in this rule, all other forms of take are considered a violation of section 9 of the Act. Any wolf or wolf part taken legally must be turned over to the Service unless otherwise specified in this rule. Any take of wolves must be reported as set forth in paragraph (a)(6) of this section.

(i) *Opportunistic harassment.* Anyone may conduct opportunistic harassment of any gray wolf in a non-injurious manner at any time. Opportunistic harassment must be reported to the Service or a designated agent within 7 days as set forth in paragraph (a)(6) of this section.

(ii) *Intentional harassment.* After we or a designated agent have confirmed wolf activity on private land, on a public land grazing allotment, or on a Tribal reservation, we or the designated agent may issue written take authorization valid for not longer than 1 year, with appropriate conditions, to any landowner or public land permittee to intentionally harass wolves. The harassment must occur in the area and under the conditions as specifically identified in the written take authorization. Intentional harassment must be reported to the Service or a designated agent(s) within 7 days as set forth in paragraph (a)(6) of this section.

(iii) *Take by landowners on their private land.* Landowners may take wolves on their private land in the following two additional circumstances:

(A) Consistent with State or Tribal requirements, any landowner may take a gray wolf in the act of attacking livestock or dogs (working or pet) on their private land, provided that there is no evidence of intentional baiting, feeding, or deliberate attractants of wolves. To preserve physical evidence that the livestock or dogs were recently attacked by a wolf or wolves, the carcass and surrounding area must not be disturbed. The Service or designated agent must be able to confirm that the livestock or dogs were wounded, harassed, molested, or killed by wolves. The take of any wolf without such evidence of a direct and immediate threat may be referred to the appropriate authorities for prosecution.

(B) The Service or designated agent may issue a ''shoot-on-sight'' written take authorization of limited duration (45 days or fewer) to a landowner or their employees to take up to a specified (by the Service or our designated agent) number of wolves on their private land if:

(*1*) The landowner has had at least one depredation by wolves on livestock that has been confirmed by the Service or our designated agent within the last 30 days; and

(*2*) The Service or our designated agent has determined that problem wolves routinely occur on the private land and present a significant risk to the health and safety of livestock; and

(*3*) The Service or our designated agent has authorized lethal removal of wolves from those same private lands.

(*4*) These authorizations may be terminated at any time once threats have been resolved or minimized.

(iv) *Take on public land.* Consistent with State or Tribal requirements, any livestock producer and public land permittee (see definitions in paragraph (a)(4) of this section) who is legally using public land under a valid Federal land-use permit may take a gray wolf in the act of attacking livestock or dogs on the person's allotment or other area authorized for the person's use without prior written authorization.

(A) The Service or designated agent must be able to confirm that the livestock or dog were wounded, harassed, molested, or killed by a wolf or wolves. The carcass of any wolf taken and the area surrounding it should not be disturbed to preserve physical evidence that the take was conducted according to this rule. Any person legally present on public land may immediately take a wolf that is in the act of attacking the individual's stock animal or dog, provided conditions described in paragraph (a)(5)(iii)(A) of this section for private land (*i.e.,* ''in the act of attacking'') are met. Any take or method of take on public land must be consistent with the laws and regulations on those public lands.

(B) The Service or our designated agent may issue a ''shoot-on-sight'' written take authorization of limited duration (45 days or fewer) to a public land grazing permittee to take up to a specified (by the Service or our designated agent) number of wolves on that permittee's active livestock grazing allotment if all of the following situations occur:

(*1*) The grazing allotment has had at least one depredation by wolves on livestock that has been confirmed by the Service or our designated agent within the last 30 days; and

(*2*) The Service or our designated agent has determined that problem wolves routinely occur on that allotment and present a significant risk to the health and safety of livestock; and

(*3*) The Service or our designated agent has authorized lethal removal of wolves from that same allotment.

(*4*) These authorizations may be terminated at any time once threats have been resolved or minimized.

(*5*) Any take or method of take on public land must be consistent with the rules and regulations on those public lands.

(v) *Agency take of wolves that repeatedly depredate livestock.* The Service or our designated agent may carry out harassment, nonlethal control measures, relocation, placement in captivity, or lethal control of problem wolves. The Service or our designated agent will consider:

(A) Evidence of wounded livestock, dogs, or other domestic animals, or remains of livestock, dogs, or domestic animals that show that the injury or

death was caused by wolves, or evidence that wolves were in the act of attacking livestock, dogs, or domestic animals;

(B) The likelihood that additional wolf-caused losses or attacks may occur if no control action is taken;

(C) Any evidence of unusual attractants or artificial or intentional feeding of wolves; and

(D) Evidence that animal husbandry practices recommended in approved allotment plans and annual operating plans were followed.

(vi) *Take in defense of human life.* Any person may take a gray wolf in defense of the individual's life or the life of another person. The taking of a wolf without an immediate and direct threat to human life may be referred to the appropriate authorities for prosecution.

(vii) *Take to protect human safety.* The Service or our designated agent may promptly remove any wolf that we or our designated agent determines to be a threat to human life or safety.

(viii) *Incidental take.* Take of a gray wolf is allowed if the take is accidental and/or incidental to an otherwise lawful activity and if reasonable due care was practiced to avoid such take and such take is reported within 24 hours as set forth at paragraph (a)(6) of this section. We may refer incidental take that does not meet these provisions to the appropriate authorities for prosecution. Shooters have the responsibility to identify their target before shooting. Shooting a wolf as a result of mistaking it for another species is not considered accidental and may be referred to the appropriate authorities for prosecution.

(ix) *Take under permits.* Any person with a valid permit issued by the Service under 50 CFR 17.32, or our designated agent, may take wolves in the wild, pursuant to terms of the permit.

(x) *Additional take authorization for agency employees.* When acting in the course of official duties, any employee of the Service or a designated agent may take a wolf when necessary in regard to the release, tracking, monitoring, recapture, and management of the NEP or to:

(A) Aid or euthanize a sick, injured, or orphaned wolf and transfer it to a licensed veterinarian for care;

(B) Dispose of a dead specimen;

(C) Salvage a dead specimen that may be used for scientific study;

(D) Aid in law enforcement investigations involving wolves (collection of specimens for necropsy, etc.); or

(E) Remove wolves with abnormal physical or behavioral characteristics, as determined by the Service or our designated agent, from passing on or teaching those traits to other wolves.

(F) Such take must be reported to the Service as set forth in paragraph (a)(6) of this section, and specimens are to be retained or disposed of only in accordance with directions from the Service.

(xi) *Take for research purposes.* Permits are available and required, except as otherwise allowed by this rule, for scientific purposes, enhancement of propagation or survival, educational purposes, or other purposes consistent with the Act (50 CFR 17.32). Scientific studies should be reasonably expected to result in data that will lead to development of sound management of the gray wolf and to enhancement of its survival as a species.

(6) *Reporting requirements.* Except as otherwise specified in this rule or in an authorization, any take of a gray wolf must be reported to the Service or our designated agent as follows: Lethal take must be reported within 24 hours, and opportunistic or intentional harassment must be reported within 7 days. We will allow additional reasonable time if access to the site is limited.

(i) Report any take of wolves, including opportunistic harassment or intentional harassment, to U.S. Fish and Wildlife Service, Colorado Ecological Services Field Office Supervisor (134 Union Boulevard, Suite 670, Lakewood, Colorado 80225, *ColoradoES@fws.gov*), or a Service-designated agent of another Federal, State, or Tribal agency.

(ii) Unless otherwise specified in this paragraph (a) any wolf or wolf part taken legally must be turned over to the Service, which will determine the disposition of any live or dead wolves.

(7) *Prohibitions.* Take of any gray wolf in the NEP is prohibited, except as provided in paragraphs (a)(5) and (8) of this section. Specifically, the following actions are prohibited by this rule:

(i) No person shall possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any wolf or part thereof from the experimental population taken in violation of the regulations in this paragraph (a) or in violation of applicable State or Tribal fish and wildlife laws or regulations or the Act.

(ii) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed any offense defined in this paragraph (a).

(8) *Monitoring.* Gray wolves in the NEP area will be monitored by radio telemetry or other standard wolf population monitoring techniques as appropriate. Any animal that is sick, injured, or otherwise in need of special care may be captured by authorized personnel of the Service or our designated agent and given appropriate care. Such an animal will be released back into its respective area as soon as possible, unless physical or behavioral problems make it necessary to return the animal to captivity or euthanize it. If a gray wolf is taken into captivity for care or is euthanized, it must be reported to the Service within 24 hours or as soon as reasonably appropriate.

(9) *Review and evaluation of the success or failure of the NEP.* Radio transmitters, remote cameras, surveys of roads and trails to document wolf sign, and other monitoring techniques will be used to document wolf reproductive success, abundance, and distribution in Colorado post-release.

(i) To evaluate progress toward achieving State downlisting and delisting criteria, the Service will summarize this information in an annual report by CPW, submitted by June 30 of each year, that describes wolf conservation and management activities that occurred in Colorado each calendar or biological year. The annual report may include, but not be limited to: post-release wolf movements and behavior; wolf minimum counts or abundance estimates; reproductive success and recruitment; territory use and distribution; cause-specific wolf mortalities; and a summary of wolf conflicts and associated management activities to minimize wolf conflict risk.

(ii) To assess the reintroduction program, the Service will evaluate Colorado's wolf reintroduction and management program in a summary report each year that wolf reintroductions occur in the State and for a minimum of 5 years after reintroductions are complete. If the Service determines that modifications to reintroduction protocols and wolf monitoring and management activities are needed, the Service will coordinate closely with the State to ensure progress toward achieving recovery goals while concurrently minimizing wolf-related conflicts in Colorado.

(10) *Memorandum of Agreement (MOA).* The State of Colorado or any Tribe within the State, subject to the terms of this rule, may request an MOA from the Service to take over lead management responsibility and authority to implement this rule by managing the nonessential experimental gray wolves in the State or on that Tribal reservation, and implement all parts of their State or Tribal plan that are consistent with this rule, provided that the State or Tribe has a wolf management plan approved by the Service.

(i) The State or Tribal request for wolf management under an MOA must demonstrate:

(A) That authority and management capability reside in the State or Tribe to conserve the gray wolf throughout the geographical range of the experimental population within the State of Colorado or within the Tribal reservation;

(B) That the State or Tribe has an acceptable conservation program for the gray wolf, throughout the NEP area within the State or Tribal reservation, including the requisite authority and capacity to carry out that conservation program;

(C) Exactly what parts of the State or Tribal plan the State or Tribe intends to implement within the framework of this rule; and

(D) That the State or Tribal management progress will be reported to the Service on at least an annual basis so the Service can determine if State or Tribal management was conducted in full compliance with this rule.

(ii) The Service will approve such a request upon a finding that the applicable criteria are met and that approval is not likely to jeopardize the continued existence of the gray wolf in the NEP.

(iii) If the Service approves the request, the Service will enter into an MOA with the State of Colorado or appropriate Tribal representative.

(iv) An MOA for State or Tribal management as provided in this rule may allow the State of Colorado or any Tribe within the State to become designated agents and lead management of the nonessential experimental gray wolf population within the borders of their jurisdictions in accordance with the State's or Tribe's wolf management plan, except that:

(A) The MOA may not provide for any form of management inconsistent with the protection provided to the species under this rule, without further opportunity for appropriate public comment and review and amendment of this rule.

(B) The MOA cannot vest the State of Colorado or any Tribe within the State with any authority over matters concerning section 4 of the Act (determining whether a species warrants listing).

(C) In the absence of a Tribal wolf management plan or cooperative agreement, the MOA cannot vest the State of Colorado with the authority to issue written authorizations for wolf take on reservations. The Service will retain the authority to issue these written authorizations until a Tribal wolf management plan is developed.

(D) The MOA for State or Tribal wolf management must provide for joint law enforcement responsibilities to ensure that the Service also has the authority to enforce the State or Tribal management program prohibitions on take.

(E) The MOA may not authorize wolf take beyond that stated in the rule but may be more restrictive.

(v) The authority for the MOA will be the Act, the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j), and the Fish and Wildlife Coordination Act (16 U.S.C. 661–667e), and any applicable treaty.

(vi) In order for the MOA to remain in effect, the Service must find, on an annual basis, that the management under the MOA is not jeopardizing the continued existence of the gray wolf in the NEP. The Service or State or Tribe may terminate the MOA upon 90 days' notice if:

(A) Management under the MOA is likely to jeopardize the continued existence of the gray wolf in the NEP;

(B) The State or Tribe has failed materially to comply with this rule, the MOA, or any relevant provision of the State or Tribal wolf management plan;

(C) The Service determines that biological circumstances within the range of the gray wolf indicate that delisting the species is warranted; or

(D) The States or Tribes determine that they no longer want the wolf management authority vested in them by the Service in the MOA.

* * * * *

Stephen Guertin,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2023–03196 Filed 2–16–23; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 88, No. 33
Friday, February 17, 2023

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding: (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding these information collections are best assured of having their full effect if received by March 20, 2023. Written comments and recommendations for the proposed information collection should be submitted, identified by docket number 0535–0264, within 30 days of the publication of this notice by any of the following methods:

- *Email: omboffi cer@nass.usda.gov*. Include docket number above in the subject line of the message.
- *E-fax:* 855–838–6382.
- *Mail:* Mail any paper, disk, or CD–ROM submissions to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336, South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.
- *Hand Delivery/Courier:* Hand deliver to: Richard Hopper, NASS Clearance Officer, U.S. Department of Agriculture, Room 5336, South Building, 1400 Independence Avenue SW, Washington, DC 20250–2024.

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.

National Agricultural Statistics Service (NASS)

Title: North Carolina Labor Survey.

OMB Control Number: 0535–0264.

Summary of Collection: The primary objectives of the National Agricultural Statistics Service (NASS) are to prepare and issue official State and national estimates of crop and livestock production, disposition and prices, economic statistics, and environmental statistics related to agriculture and to conduct the Census of Agriculture and its follow-on surveys. NASS will conduct a survey of operations in North Carolina. Selected operators in North Carolina will be asked to provide data on agricultural labor hiring practices.

General authority for these data collection activities is granted under U.S.C. Title 7, Section 2204. This survey will be conducted on a full cost recovery basis with the North Carolina Department of Agriculture and Consumer Services (NCDACS) providing funding under a cooperative agreement.

Need and Use of the Information: The survey results will also be used by the North Carolina Department of Agriculture and Consumer Services to determine a list of best hiring, training labor practices, and additional guidelines for North Carolina agricultural producers. The survey results are expected to create programs for youth involved in the agriculture labor force, improve wages for farmworker families and to improve commodity prices for growers. The survey results will also be used by the North Carolina Department of Agriculture and Consumer Services in policy reviews for labor regulations and contract requirements of commodity purchases.

North Carolina Department of Agriculture and Consumer Services believes the survey is necessary to advance the understanding of agricultural labor sources in North Carolina. Currently, there are limited amounts of data regarding North Carolina's agricultural labor force and the survey would go a long way to fill that gap by providing additional data.

Description of Respondents: Agricultural operations in North Carolina who hire agricultural labor.

Number of Respondents: 3,200.

Frequency of Responses: Reporting: One a year.

Total Burden Hours: 1,286.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–03380 Filed 2–16–23; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

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

Comments regarding this information collection received by March 20, 2023 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/*

public/do/PRAMain. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

Forest Service

Title: Financial Information Security Request Form.

OMB Control Number: 0596–0204.

Summary of Collection: The majority of Forest Service's (FS) financial records are in databases stored at the National Finance Center (NFC). The Federal Information Security Reform Act of 2002 (Pub. L. 107–347) and Information Technology Management Reform Act of 1996 (Pub. L. 104–106) authorize the Forest Service to obtain information necessary for contracted employees to access and maintain these records.

Need and Use of the Information: The Forest Service uses a paper and electronic version of its form FS–6500–214 to gather name, work email, work telephone number, job title etc. for a specific contracted employee to apply to NFC for access. Prior to filling out the firm, contractors must first complete specific training before a user may request access to certain financial systems. NFC grants access to users only at the request of Client Security Officers. The unit's Client Security Officer is responsible for management of access to computers and coordinates all requests for NFC. The information collected is shared with those managing or overseeing the financial systems used by the FS, this includes auditors.

Description of Respondents: Contracted Employees.

Number of Respondents: 209.

Frequency of Reponses: Reporting: Yearly.

Total Burden Hours: 315.

Forest Service

Title: Federal and Non-Federal Financial Assistance Instruments.

OMB Control Number: 0596–0217.

Summary of Collection: To carry out specific Forest Service activities, Congress created several authorities to assist the Agency in its mission. These authorities allow the Forest Service to utilize Federal Financial Assistance (FFA) awards (*i.e.,* grants and cooperative agreements) to support agency specific authorities and appropriations. Included in this collection are forms related to the Award Letter, Certification Letters, FFA related Standard Forms (SF), and information related to Pre-Award and Post-Award activities, which include but not limited to, the project description, project scope, financial plan, statement of work, and cooperator business information.

Need and Use of the Information: In addition to Federal Financial Assistance (FFA), Congress created specific authorizations for acts outside the scope of the FGCAA. Appropriations language was developed to convey authority for the Forest Service to enter relationships that are outside the scope of the FGCAA. The Forest Service implements these authorizations using instruments such as collection agreements, FGCAA exempted agreements, memorandums of understanding, and other agreements which mutually benefit participating parties. These instruments fall outside the scope of the Federal Acquisition Regulations (FAR) and often require financial plans and statements of work. Forest Service employees collect information from cooperating parties from the pre-award to the closeout stage via telephone calls, emails, postal mail, and person-to-person meetings to create, develop, and administer these funded and non-funded agreements. The multiple means for respondents to communicate their responses include forms, non-forms, electronic documents, face-to-face, telephone, and internet. The scope of information collected varies; however, it typically includes the project type, project scope, financial plan, statement of work, and cooperator's business information.

The Forest Service would not be able to create, develop, and administer these funded and non-funded agreements without the collected information. The Agency would also be unable to develop or monitor projects, make or receive payments, or identify financial and accounting errors.

Description of Respondents: Business or other for-profit; Not-for-profit Institutions; State, Local or Tribal Government; Individuals.

Number of Respondents: 16,986.

Frequency of Responses: Recordkeeping; Reporting: Quarterly; On occasion.

Total Burden Hours: 32,767.

Forest Service

Title: Federal Excess Personal and Firefighter Property Program Administration.

OMB Control Number: 0596–0223.

Summary of Collection: Federal Excess Personal Property (FEPP) and Firefighter Property (FFP) programs provide state (including US territories) forestry agencies the opportunity to obtain excess Department of Defense and other Federal agencies equipment and supplies to be used in firefighting and emergency services. The authority to provide excess supplies to state agencies comes from Federal Property and Administration Services Act of 1949, as amended, 40 U.S.C., Sec 202. Authority to loan excess supplies comes from 10 U.S.C., Subtitle A, Part IV, Chapter 153, 2576b grants the authority for the FFP.

Need and Use of the Information: The Forest Service (FS) ''Federal Excess Property Management Information System (FEPMIS) database allows the FS to collect FEPP and FFP information used to manage property inventory electronically. Access to the database is limited to those state employees with access authorized by FS Management Officers working in the fire and Aviation staff. Each state designates an Accountable Officer who is responsible for the integrity of the program within their respective state and completing the necessary documentation for each program in which the state participates. For this reason FEPP and FFP collects the state forestry agency contact information and the information of the Accountable Officer. Cooperative Agreement forms FS–3100–10 and/or FS–3100–11 are used to collect the required information from the participating state agency that outlines the requirements and rules for the cooperation. Participating state agencies must submit separate agreements if they desire to participate in both programs.

Description of Respondents: State and local government.

Number of Respondents: 76.

Frequency of Responses: Recordkeeping; Reporting: Annual.

Total Burden Hours: 600.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–03346 Filed 2–16–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are

requested regarding; whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by March 20, 2023 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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

Animal and Plant Health Inspection Service

Title: Animal Welfare.

OMB Control Number: 0579–0036.

Summary of Collection:

Under the Animal Welfare Act (AWA, 7 U.S.C. 2131 *et seq.*), the Secretary of Agriculture is authorized to promulgate standards and other requirements governing the humane handling, care, treatment, and transportation of certain animals by dealers, exhibitors, operators of auction sales, research facilities, carriers and intermediate handlers. The Secretary has delegated responsibility for administering the AWA to the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS), Animal Care.

Definitions, regulations, and standards established under the AWA are contained in 9 CFR parts 1, 2, and 3 (referred to below as the regulations). Part 1 contains definitions for terms used in parts 2 and 3. Part 2 provides administrative requirements and sets forth institutional responsibilities for regulated parties, including licensing requirements for dealers, exhibitors, and operators of auction sales. Dealers, exhibitors, and operators of auction sales are required to comply in all respects with the regulations and standards (9 CFR 2.100(a)) and to allow APHIS officials access to their place of business, facilities, animals, and records to inspect for compliance (9 CFR 2.126). Part 3 provides standards for the humane handling, care, treatment, and transportation of covered animals. Part 3 consists of subparts A through E, which contain specific standards for dogs and cats, guinea pigs and hamsters, rabbits, nonhuman primates, and marine mammals, respectively, and subpart F, which sets forth general standards for warmblooded animals not otherwise specified in part 3.

Need and Use of the Information

Administering the AWA requires the use of several information collection activities such as license applications and renewals, which now include a request to identify whether the business mailing address is a personal residence or not a personal residence; registration applications and updates; annual reports; acknowledgement of regulations and standards; inspections; requests; notifications; agreements; plans; written program of veterinary care and health records; itineraries; applications and permits; records of acquisition, disposition, or transport of animals; official identification; variances; protocols; health certificates; complaints; marking requirements; and recordkeeping. The information is used to provide APHIS with the data necessary to review and evaluate program compliance by regulated facilities, and provide a workable system to administer the requirements of the AWA and intent of Congress without resorting to more detailed and stringent regulations and standards that could be more burdensome to regulated facilities.

Description of Respondents: Individuals or Households; Businesses or Other For-Profit Entities; Not-For-Profit Institutions; State, Local, and Tribal Governments; Foreign Federal Governments.

Number of Respondents: 45,295.

Frequency of Responses: Recordkeeping; Reporting; Third Party Disclosure: On occasion.

Total Burden Hours: 330,408.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–03453 Filed 2–16–23; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Final Record of Decision for the National Forests in North Carolina

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of approval of the revised Land Management Plan for the Nantahala and Pisgah National Forests.

SUMMARY: James Melonas, the Forest Supervisor for the National Forests in North Carolina, Southern Region, signed the Final Record of Decision (ROD) for the revised Nantahala and Pisgah National Forests Land Management Plan (LMP). The final ROD documents the rationale for approving the revised LMP and is consistent with the Reviewing Officer's responses to objections and instructions.

DATES: The revised LMP for the Nantahala and Pisgah National Forests will become effective 30 days after the publication of this notice of approval in the **Federal Register** (36 CFR 219.17(a)(1)).

ADDRESSES: To view the final ROD, Final Environmental Impact Statement (FEIS), the revised LMP, and other related documents, please visit the National Forests in North Carolina website at: *www.fs.usda.gov/goto/nfsnc/nprevision.* A legal notice of approval is also being published in the newspaper of record, Asheville Citizen Times. A copy of this legal notice will be posted on the National Forests in North Carolina website as listed in **ADDRESSES**.

FOR FURTHER INFORMATION CONTACT: Michelle Aldridge, Forest Planner, Nantahala and Pisgah National Forests, by telephone 828–257–4200, or via email at *michelle.aldridge@usda.gov.*

Individuals who use telecommunication devices for the deaf or hard of hearing (TDD) may call the Federal Relay Service (FRS) at 800–877–8339, 24 hours a day, every day of the year, including holidays. Written requests for information may be sent to National Forests in North Carolina, Attn: Forest Plan Revision, 160 Zillicoa Street, Ste. A; Asheville, NC 28801.

SUPPLEMENTARY INFORMATION: The Nantahala and Pisgah National Forests span six ranger districts and

approximately 1.04 million acres across 18 counties in Western North Carolina. The Forests have a combined LMP. The LMP was developed pursuant to the 2012 Forest Service Planning Rule (36 CFR 219) and will replace the current LMP, which was significantly amended in 1994 following its 1987 release. The revised LMP describes desired conditions, objectives, standards, guidelines, and land suitability for project and activity decision-making and will guide all resource management activities on the Forests.

The Nantahala and Pisgah National Forests lie within one of the oldest mountain ranges in the world and are a global hotspot for biodiversity, with a rich diversity of ecosystems, unique habitats, and rare species. The Nantahala and Pisgah National Forests are among the most visited in the National Forest System with nationally recognized scenic and recreation destinations that are among the region's greatest economic assets. The Pisgah Forest is also home to the birthplace of scientific forestry in America.

The Nantahala and Pisgah National Forests initiated LMP revision in 2013. During revision, the Forests engaged with federal, state, and local governments; 18 counties; three regional councils of government; local congressional staff; scientists; numerous interest and industry groups; individuals; and three collaborative groups that serve as liaisons to broader communities of interests. The design of public and government involvement was dynamic, allowing opportunities to both inform and accept feedback on the planning process as well as specific elements of the LMP. Public participants had opportunities to engage through more than 49 traditional public meetings, as well as through virtual meetings, facilitated phone calls, social media, email, and postal mail. The Forests engaged in government-to-government consultation with 12 federally recognized tribes. The revised LMP honors and redeems the Forests' trust responsibility to tribes, recognizes tribes and tribal members as partners in stewarding the national forests, and values traditional ecological knowledge and places of tribal significance. The development of the LMP was shaped by the best available scientific information, current laws, and public and government input.

A 135-day public comment period on the draft LMP and associated Draft EIS was initiated on February 14, 2020. Comments were used to refine the preferred alternative and augment LMP. A draft ROD, LMP, and FEIS were released in January 2022, initiating a 60-day objection filing period that closed March 22, 2022. The Forest Service received 825 eligible objections. Following the objection review, the Reviewing Officer held objection resolution meetings with objectors and interested persons. Based on these meetings, the Reviewing Officer issued a written response on January 19, 2023. The instructions from the Reviewing Officer were addressed in the ROD, LMP, and FEIS.

Lead and Cooperating Agencies

The Bureau of Land Management is a cooperating agency per their legal jurisdiction over the federal mineral estate underlying the Nantahala and Pisgah National Forests and provides information and special expertise related to subsurface mineral resources.

Responsible Official

The Responsible Official for approving the revised LMP is James E. Melonas, Forest Supervisor, National Forests in North Carolina. The Responsible Official approving the list of species of conservation concern is Ken Arney, Regional Forester, Southern Region.

Dated: February 9, 2023.

Troy Heithecker,

Associate Deputy Chief, National Forest System.

[FR Doc. 2023–03353 Filed 2–16–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Okanogan-Wenatchee National Forest; Washington; Forest Plan Amendment for Planning and Management of Domestic Sheep and Goat Grazing Within the Range of Bighorn Sheep; Correction

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Correction to notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service published a notice of intent (NOI) to prepare an environmental impact statement (EIS) in the **Federal Register** on May 17, 2019 (84 FR 22432). The NOI served as the scoping document for the Forest Plan Amendment for Planning and Management of Domestic Sheep and Goat Grazing Within the Range of Bighorn Sheep for the Okanogan-Wenatchee National Forest (Forest). After the initial 2019 scoping effort, the Forest determined the need to update the NOI with new dates for the draft EIS and final EIS, new contact information, revised need for action, revised proposed action, preliminary alternatives, and nature of the decision to be made.

DATES: Comments concerning the scope of the analysis must be received by April 3, 2023. The draft EIS is expected December 2023 and the final EIS is expected December 2024.

ADDRESSES: Send written comments to: Okanogan-Wenatchee National Forest, Domestic Sheep EIS, 215 Melody Lane, Wenatchee, Washington 98801. Written comments can be submitted in person at the above address during regular business hours between 8:00 a.m. and 4:30 p.m., Pacific Time, Monday through Friday. Comments may also be submitted online at *https://www.fs.usda.gov/project/?project=53257* or via facsimile to 509–664–9280.

FOR FURTHER INFORMATION CONTACT: Stacy Lundgren, Environmental Coordinator, via email at *stacy.lundgren@usda.gov.* Individuals who use telecommunication devices for the deaf (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:

Purpose and Need for Action

The purpose for this action remains the same as described in the 2019 NOI found here: *https://www.govinfo.gov/content/pkg/FR-2019-05-17/pdf/2019-10266.pdf.* The need has been revised to address new concerns related to existing allotment management plans.

To address these concerns, the Forest needs to amend both the Okanogan and Wenatchee Forest Plans to identify which existing grazing allotments are suitable or unsuitable for domestic sheep and goat grazing. The Forest also needs to identify potential site-specific grazing opportunities which could be made available to existing sheep permittees on the Forest. In contrast to the 2019 NOI, the proposed plan amendments and allotment analyses will *not* address grazing allotments on the Tonasket Ranger District, as that unit is now administered by the Colville National Forest.

Proposed Action

The revised proposed action would: (1) amend the Okanogan and Wenatchee Forest Plans to provide guidance for where domestic livestock grazing might be feasible and appropriate; and (2) develop site-specific allotment management plans for grazing of

domestic livestock, including sheep, goats, and cattle.

While the Forest is currently managed as one administrative unit, forest plans were completed separately and were signed prior to the Regional Forester identifying bighorn sheep as a sensitive species. The proposed forest-wide plan amendment would add plan components to both forest plans to support management of domestic livestock grazing while mitigating disease transmission risk to bighorn sheep. Disease trasnmission risk factors that may be analyzed include bighorn sheep management and herd dynamics, local topography, spatial or temporal separation, other herd characteristics, or range management actions.

In addition to forest plan components, site-specific conditions relative to risk of disease transmission between bighorn sheep and domestic livestock would be evaluated for each allotment. Domestic livestock grazing conditions, including but not limited to continuing sheep and goat grazing, switching from sheep and goat to cattle grazing, keeping allotments vacant, or closing allotments would be evaluated to determine how best to meet the need for action.

Preliminary Alternatives

The Forest has developed six preliminary alternatives: no action, current management strategies, no domestic livestock grazing, separation area delinations, allotment-by-allotment suitability determinations, and modified zone management.

Expected Impacts

The Forest will evaluate the proposed action and alternatives for potentially significant impacts including changes in the abundance and distribution of bighorn sheep, increased risk of disease transmission to bighorn sheep that result in population declines, changes in bighorn sheep viewing and hunting opportunities, changes to range conditions due to modification of grazing practices, and effects to local economies.

Lead and Cooperating Agencies

The USDA Forest Service is the lead agency for the analysis in compliance with the National Environmental Policy Act. The two cooperating agencies include the USDA Agricultural Research Service (ARS) and the Washington Department of Fish and Wildlife (WDFW) as described here: *https://www.govinfo.gov/content/pkg/FR-2019-05-17/pdf/2019-10266.pdf.*

Responsible Official

The responsible official who will approve the Record of Decision is the Okanogan-Wenatchee National Forest Supervisor.

Scoping Comments and the Objection Process

This notice of intent re-opens the scoping process that was initiated in the NOI published in the **Federal Register** in May 2019. Because the Forest continues to use the information received during the original comment period associated with the 2019 NOI, those comments need not be resubmitted. Comments submitted in response to this updated NOI will also be considered, and all comments will guide the development of the draft environmental impact statement. The Agency is requesting comments on potential alternatives and impacts, and identification of any relevant information, studies, or analyses concerning impacts that may affect the quality of the environment.

It is important that reviewers provide their comments at such times and in such manner that they are useful to the agency's preparation of the environmental impact statement. Therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions.

The proposed action is subject to objection under Forest Service regulations found at 36 CFR 218 and 36 CFR 219. Commenting during scoping and any other designated opportunity to comment provided by the Responsible Official will establish eligibility to object once the final EIS and Draft Record of Decision have been published. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action. Comments submitted anonymously will be accepted and considered, however, they cannot be used to establish eligibility for the objection process.

Nature of Decision To Be Made

The Responsible Official will decide whether to approve the proposed amendment for the two Forest Plans to establish new plan components for domestic sheep and goat grazing on NFS lands within the range of the bighorn sheep and decide on site-specific allotment management for grazing of domestic sheep, goats, and cattle.

Substantive Provisions

In accordance with the regulation at 36 CFR 219.6, when evaluating an amendment for a Forest Plan, ''the responsible official has the discretion to determine the scope, scale, and timing of an assessment . . . .'' As per 36 CFR 219.13(b)(5), the responsible official shall, ''[d]etermine which specific substantive requirement(s) within 219.8 through 219.11 are directly related to the plan direction being added, modified, or removed by the amendment and apply such requirement(s) within the scope and scale of the amendment.'' With the proposed amendment, the relevant substantive requirements include: 219.6(b)(6): Social, cultural, and economic conditions relevant to the plan area; 219.8(a)(1)(ii): Contributions of the plan area to ecological conditions within the broader landscape influenced by the plan area; 219.9(a)(2)(i): Key characteristics associated within terrestrial and aquatic ecosystem types; and 219.10(a)(7): Reasonably foreseeable risks to ecological, social, and economic sustainability.

Dated: February 10, 2023.

Troy Heithecker,

Associate Deputy Chief, National Forest System.

[FR Doc. 2023–03354 Filed 2–16–23; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Census Bureau

Census Scientific Advisory Committee

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of public virtual meeting.

SUMMARY: The Census Bureau is giving notice of a virtual meeting of the Census Scientific Advisory Committee (CSAC). The Committee will address policy, research, and technical issues relating to a full range of Census Bureau programs and activities, including decennial, economic, field operations, information technology, and statistics. Last minute changes to the schedule are possible, which could prevent giving advance public notice of schedule adjustments.

DATES: The virtual meeting will be held on:

- Thursday, March 9, 2023, from 11:00 a.m. to 5:00 p.m. EDT, and
- Friday, March 10, 2023, from 11:00 a.m. to 5:00 p.m. EDT.

ADDRESSES: Please visit the Census Advisory Committee website at *https://www.census.gov/about/cac/sac/*

meetings/2023-03-meeting.html, for the CSAC meeting information, including the agenda, and how to join the meeting.

FOR FURTHER INFORMATION CONTACT: Shana Banks, Advisory Committee Branch Chief, Office of Program, Performance and Stakeholder Integration (PPSI), *shana.j.banks@census.gov,* Department of Commerce, Census Bureau, telephone 301–763–3815. For TTY callers, please use the Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Committee provides scientific and technical expertise to address Census Bureau program needs and objectives. The members of the CSAC are appointed by the Director of the Census Bureau. The Committee has been established in accordance with the Federal Advisory Committee Act (Title 5, United States Code, Appendix 2, Section 10).

All meetings are open to the public. Public comments will be accepted in writing only to *shana.j.banks@census.gov* (subject line ''2023 CSAC Spring Virtual Meeting Public Comment''). A brief period will be set aside during the meeting to read public comments received in advance of 12:00 p.m. EDT, March 9, 2023. Any public comments received after the deadline will be posted to the website listed in the **ADDRESSES** section.

Robert L. Santos, Director, Census Bureau, approved the publication of this Notice in the **Federal Register**.

Dated: February 13, 2023.

Shannon Wink,

Program Analyst, Policy Coordination Office, U.S. Census Bureau.

[FR Doc. 2023–03378 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 230209–0040]

RIN 0694–XC095

Effectiveness of Licensing Procedures for the Export and Reexport of Agricultural Commodities to Cuba

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Request for comments.

SUMMARY: The Bureau of Industry and Security (BIS) is requesting public comments on the effectiveness of its licensing procedures as defined in the Export Administration Regulations (EAR) for the export and reexport of agricultural commodities to Cuba. BIS will include a description of any comments it receives in its biennial report to the Congress, as required by the Trade Sanctions Reform and Export Enhancement Act of 2000, as amended (TSRA).

DATES: Comments must be received by March 20, 2023.

ADDRESSES: Comments on this notice may be submitted via the Federal rulemaking portal: *https://www.regulations.gov*—you can find this notice by searching on its *regulations.gov* docket number, which is BIS–2023–0004.

Comments may also be submitted by mail or delivery to Regulatory Policy Division, Bureau of Industry and Security, U.S. Department of Commerce, Room 2099B, 14th Street and Pennsylvania Avenue NW, Washington, DC 20230. Refer to RIN 0694–XC095.

All comments (including any personally identifying information) will be made available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: Jerry Huang, Office of Nonproliferation and Treaty Compliance, Telephone: (202) 482–4252. Additional information on BIS procedures and previous biennial reports under TSRA is available at *http://www.bis.doc.gov/index.php/policy-guidance/country-guidance/sanctioned-destinations/13-policy-guidance/country-guidance/426-reports-to-congress.* Copies of these materials may also be requested by contacting the Office of Nonproliferation and Treaty Compliance.

SUPPLEMENTARY INFORMATION: Pursuant to section 906(a) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) (22 U.S.C. 7205(a)), the Bureau of Industry and Security (BIS) authorizes exports and reexports of agricultural commodities, as defined in part 772 of the Export Administration Regulations (EAR), to Cuba. Requirements and procedures associated with such authorization are set forth in § 740.18 of the EAR (15 CFR 740.18). These are the only licensing procedures in the EAR currently in effect pursuant to the requirements of section 906(a) of TSRA.

Under the provisions of section 906(c) of TSRA (22 U.S.C. 7205(c)), BIS must submit a biennial report to the Congress on the operation of the licensing system implemented pursuant to section 906(a) for the preceding two-year period. This report must include the number and types of licenses applied for, the number and types of licenses approved, the average amount of time elapsed from the date of filing of a license application until the date of its approval, the extent to which the licensing procedures were effectively implemented, and a description of comments received from interested parties during a 30-day public comment period regarding the effectiveness of the licensing procedures. Consistent with TSRA's requirements, BIS is currently preparing a biennial report on the operation of the licensing system for the two-year period from October 1, 2020 through September 30, 2022.

Request for Comments

By this notice, BIS requests public comments on the effectiveness of the licensing procedures for the export and reexport of agricultural commodities to Cuba set forth under § 740.18 of the EAR. Parties submitting comments are asked to be as specific as possible. All comments received by the close of the comment period will be considered by BIS in developing the report to Congress.

All comments must be in writing and will be available for public inspection and copying. Any information that the commenter does not wish to be made available to the public should not be submitted to BIS.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2023–03359 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Shuren Qin, Inmate Number: 01003–138, FCI Allenwood Low, Federal Correctional Institution, P.O. Box 1000, White Deer, PA 17887;

On September 8, 2021, in the U.S. District Court for the District of Massachusetts, Shuren Qin (''Qin''), was convicted of violating the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*) (''IEEPA''), 8 U.S.C. 1001 and 18 U.S.C. 554(a), among other violations. Specifically, Qin was convicted conspiring to unlawfully export items from the United States to Northwestern Polytechnical University, an entity on the Department of Commerce's Entity List, without first obtaining the required export licenses; two counts of making false statements to law enforcement agents regarding his customers and the types of parts he caused to be exported from the United States to China; and two counts of smuggling hydrophones from the United States to the China.

As a result of his conviction, the Court sentenced Qin to 24 months of confinement, two years of supervised release, a $1,000 assessment and a $20,000 criminal fine.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, IEEPA, 18 U.S.C. 1001 and 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Qin's conviction for violating IEEPA, 18 U.S.C. 1001 and 18 U.S.C. 554, and has provided notice and opportunity for Qin to make a written submission to BIS, as provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''). 15 CFR 766.25.[2] BIS has not received a written submission from Qin.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Qin's export privileges under the Regulations for a period of ten years from the date of Qin's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Qin had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered:*

First, from the date of this Order until September 8, 2031, Shuren Qin, with a last known address of, Inmate Number: 01003–138, FCI Allenwood Low, Federal Correctional Institution, P.O. Box 1000, White Deer, PA 17887, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to Section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and Sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Qin by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Qin may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Qin and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until September 8, 2031.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–03420 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–DT–P

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 and, as amended, is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders, pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Jorge Martin Dorame, Jr., 4540 S Rural Road, Apt. G8, Tempe, AZ 85282; Order Denying Export Privileges

On January 26, 2021, in the U.S. District Court for the District of Arizona, Jorge Martin Dorame, Jr. (''Dorame'') was convicted of violating 18 U.S.C. 554(a). Specifically, Dorame was convicted of smuggling and attempting to smuggle from the United States to Mexico, weapons, weapons components, and weapons parts; specifically: four Matrix Arms AR–15 80% lower receivers, two Tapco AR T6 collapsible stocks, twenty Browning 1919 A4 .308 WIN caliber ammunition links, five Apex SAW/M249 M27 5.56x45 caliber ammunition links, two AR–15 compensators, three Brownells AR–15 H3 carbine buffers, five DPMS AR–15 hammer springs, five Magpul MOE AR–15 trigger guards, five DPMS AR–15 trigger springs, one DPMS AR–15 buffer tube, one Brownells M 16 bolt carrier group, two Brownells AR–15 receiver end plates, two Brownells AR–15 charging handles, three DPMS AR–15 receiver extension castle nuts, five Luth-AR M–16 auto sears with springs, and six Luth-AR M–16 disconnectors. As a result of his conviction, the Court sentenced Dorame to 60 months of probation and a $100 special assessment.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Dorame's conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), BIS provided notice and opportunity for Dorame to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a written submission from Dorame.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Dorame's export privileges under the Regulations for a period of five years from the date of Dorame's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Dorame had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered:*

First, from the date of this Order until January 26, 2026, Jorge Martin Dorame, Jr., with a last known address of 4540 S Rural Road, Apt. G8, Tempe, AZ 85282, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Dorame by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Dorame may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Dorame and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until January 26, 2026.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–03445 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–DT–P

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Rafael Palomares, Jr., Inmate Number: 16266–508, FCI Florence, Federal Correctional Institution, P.O. Box 6000, Florence, CO 81226; Order Denying Export Privileges

On May 13, 2021, in the U.S. District Court for the District of Arizona, Rafael Palomares, Jr. (''Palomares'') was convicted of violating section 38 of the Arms Export Control Act (22 U.S.C 2778) (''AECA''). Specifically, Palomares was convicted of knowingly and willfully agreeing to conspire with others to export firearms from the United States to Mexico without the required licenses. As a result of his conviction, the Court sentenced Palomares to 45 months of confinement with credit for time served, three years of supervised release and a $100 assessment.

Pursuant to section 1760(e) of the Export Control Reform Act (''ECRA''), the export privileges of any person who has been convicted of certain offenses, including, but not limited to, section 38 of the AECA, may be denied for a period of up to ten (10) years from the date of his/her conviction. *See* 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (''BIS'') licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Palomares's conviction for violating Section 38 of the AECA. BIS provided notice and opportunity for Palomares to make a written submission to BIS, as provided in section 766.25 of the Export Administration Regulations (''EAR'' or

the ''Regulations''). 15 CFR 766.25.[2] BIS has not received a written submission from Palomares.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Palomares's export privileges under the Regulations for a period of 10 years from the date of Palomares's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Palomares had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ordered:*

First, from the date of this Order until May 13, 2031, Rafael Palomares, Jr., with a last known address of Inmate Number: 16266–508, FCI Florence, Federal Correctional Institution, P.O. Box 6000, Florence, CO 81226, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA (50 U.S.C. 4819(e)) and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Palomares by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Palomares may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Palomares and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until May 13, 2031.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–03450 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–DT–P

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2022).

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders, pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Carlos Francisco Rodriguez, 4902 Marcella Ave., Apartment 25, Laredo, TX 78041–6315; Order Denying Export Privileges

On November 3, 2021, in the U.S. District Court for the Southern District of Texas, Carlos Francisco Rodriguez (''Francisco Rodriguez'') was convicted of violating 18 U.S.C. 554(a). Specifically, Francisco Rodriguez was convicted of knowingly and willfully attempting to smuggle from the U.S. to Mexico approximately 15,923 rounds of ammunition of assorted calibers. As a result of his conviction, the Court sentenced Francisco Rodriguez to 24 months in prison, 3 years of supervised release, and a $100 special assessment.

Pursuant to Section 1760(e) of the Export Control Reform Act (''ECRA''),[1] the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Francisco Rodriguez's conviction for violating 18 U.S.C. 554(a) and, as provided in Section 766.25 of the Export Administration Regulations (''EAR'' or the ''Regulations''), has provided notice and opportunity for Francisco Rodriguez to make a written submission to BIS. 15 CFR 766.25.[2] BIS has not received a submission from Francisco Rodriguez.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Francisco Rodriguez's export privileges under the Regulations for a period of seven years from the date of Francisco Rodriguez's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Francisco

[1] ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 and, as amended, is codified at 50 U.S.C. 4801–4852.

[2] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 30–774 (2022).

Rodriguez had an interest at the time of his conviction.[3]

Accordingly, it is hereby *ORDERED:*

First, from the date of this Order until November 3, 2028, Carlos Francisco Rodriguez, with a last known address of 4902 Marcella Ave., Apartment 25, Laredo, TX 78041–6315 and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not directly or indirectly participate in any way in any transaction involving any commodity, software, or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession, or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed, or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed, or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Third, pursuant to Section 1760(e) of ECRA (50 U.S.C. 4819(e)) and Sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to the Denied Person by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, the Denied Person may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to the Denied Person and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until November 3, 2028.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2023–03448 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–DT–P

[3] The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders, pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–051]

Certain Hardwood Plywood Products From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2021

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) continues to determine that six exporters of certain hardwood plywood products (hardwood plywood) from the People's Republic of China (China) under review had no shipments of subject merchandise during the period of review (POR) January 1, 2021, through December 31, 2021. Commerce also continues to determine that the remaining 14 companies subject to this review are part of the China-wide entity, because they did not demonstrate eligibility for separate rates.

DATES: Applicable February 17, 2023.

FOR FURTHER INFORMATION CONTACT: Nicolas Mayora, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3053.

SUPPLEMENTARY INFORMATION:

Background

On October 17, 2022, Commerce published the *Preliminary Results* of this administrative review.[1] We invited parties to comment on the *Preliminary Results.* A complete summary of the events that occurred since publication of the *Preliminary Results* may be found in the Issues and Decision Memorandum.[2]

Scope of the Order [3]

The merchandise covered by the *Order* is hardwood plywood from China. A full description of the scope of the *Order* is contained in the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs are addressed in the Issues and Decision Memorandum. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice in Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System

[1] *See Certain Hardwood Plywood from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2021,* 87 FR 62791 (October 17, 2022) (*Preliminary Results*).

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Certain Hardwood Plywood Products from the People's Republic of China; 2021,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See Certain Hardwood Plywood Products from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 83 FR 504 (January 4, 2018) (*Order*).

(ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on a review of the record and the comment received from interested parties, we made no changes to the *Preliminary Results.*

Final Determination of No Shipments

Commerce preliminarily found that six exporters did not ship subject merchandise during the POR.[4] As noted in the *Preliminary Results,* we received no-shipment statements from these exporters, and their statements were consistent with the information we received from U.S. Customs and Border Protection (CBP).[5] Therefore, for these final results, we continue to find that these six exporters had no shipments of subject merchandise to the United States during the POR.

China-Wide Entity

With the exception of the aforementioned six exporters that submitted no-shipment certifications, we find all other companies for which a review was requested to be part of the China-wide entity. Accordingly, the companies listed in Appendix I are part of the China-wide entity.[6]

Because no party requested a review of the China-wide entity, we did not conduct a review of the China-wide entity. The rate previously established for the China-wide entity is 183.36 percent and is not subject to change as a result of this review.[7]

Assessment Rates

We have not calculated any assessment rates in this administrative review. Based on record evidence, we have determined that the aforementioned six companies had no shipments of subject merchandise and, therefore, pursuant to Commerce's assessment practice, any suspended entries entered under their case numbers will be liquidated at the China-wide entity rate.[8]

For all remaining companies subject to this review, which are part of the China-wide entity, we will instruct CBP to liquidate their entries at the current rate for the China-wide entity (*i.e.,* 183.36 percent). Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act): (1) the cash deposit rates for the six companies that had no shipments during the POR will remain unchanged from the rates assigned to them in the most recently completed segment for each company; (2) for previously investigated or reviewed Chinese and non-Chinese exporters that have separate rates, and which were not assigned the China-wide rate in this review, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate (including the companies listed in Appendix I), the cash deposit rate will be that for the China-wide entity (*i.e.,* 183.36 percent); and (4) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 315.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO, in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213(h).

Dated: February 10, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix I

Companies Not Eligible for a Separate Rate

1. Anhui Hoda Wood Co., Ltd.
2. Happy Wood Industrial Group Co., Ltd.
3. Jiaxing Hengtong Wood Co., Ltd.
4. Linyi Chengen Import and Export Co., Ltd.
5. Linyi Glary Plywood Co., Ltd.
6. Linyi Jiahe Wood Industry Co., Ltd.
7. Qingdao Top P&Q International Corp.
8. Shanghai Brightwood Trading Co., Ltd.
9. Shanghai Futuwood Trading Co., Ltd.
10. Suzhou Oriental Dragon Import and Export Co., Ltd.
11. Xuzhou Jiangheng Wood Products Co., Ltd.
12. Xuzhou Jiangyang Wood Industries Co., Ltd.
13. Xuzhou Timber International Trade Co., Ltd.
14. Zhejiang Dehua TB Import & Export Co., Ltd.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

I. Summary
II. Background
III. Scope of the *Order*
IV. Discussion of the Issue

[4] These six exporters are: (1) Cosco Star International Co., Ltd.; (2) Linyi Evergreen Wood Co., Ltd.; (3) Linyi Huasheng Yongbin Wood Co., Ltd.; (4) Linyi Sanfortune Wood Co., Ltd.; (5) Shanghai Luli Trading Co., Ltd.; (6) Suqian Hopeway International Trade Co., Ltd.

[5] *See* Memoranda, ''No Shipment Inquiry for Suqian Hopeway International Trade Co., Ltd. During the Period 01/01/2021 through 12/31/2021,'' dated May 20, 2022; ''No Shipment Inquiry for Shanghai Luli Trading Co., Ltd. During the Period 01/01/2021 through 12/31/2021,'' dated May 20, 2022; and ''No Shipment Inquiry for Certain Companies During the Period 01/01/2021 through 12/31/2021,'' dated June 13, 2022 (collectively, CBP No Shipment Inquiries).

[6] *See* Appendix I.

[7] *See Order.*

[8] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

[FR Doc. 2023–03329 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List

Correction

In notice document 2022–28519, appearing on pages 45–49, in the issue of Tuesday, January 3, 2023, make the following correction:

In the table appearing on pages 46 and 47, in the second column, on each row, ''1/22–12/31/22'' should read ''1/1/22–12/31/22''.

[FR Doc. C1–2022–28519 Filed 2–16–23; 8:45 am]

BILLING CODE 0099–10–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–954, C–570–955]

Certain Magnesia Carbon Bricks From the People's Republic of China: Preliminary Results of Covered Merchandise Inquiry

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that certain refractory brick samples tested by U.S. Customs and Border Protection (CBP) do not reflect the chemical composition of magnesia alumina carbon (MAC) bricks and are covered by the antidumping duty (AD) and countervailing duty (CVD) orders on certain magnesia carbon bricks (bricks) from the People's Republic of China (China). Additionally, Commerce preliminarily finds that it is unable to determine whether certain other samples tested by CBP have the chemical composition of a bricks subject to the AD and CVD orders on bricks from China. Interested parties are invited to comment on these preliminary results.

DATES: Applicable February 16, 2023.

FOR FURTHER INFORMATION CONTACT: Brittany Bauer, AD/CVD Operations Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3860.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 2022, Commerce published in the **Federal Register** a notice of a covered merchandise referral and the initiation of a covered merchandise inquiry to determine whether certain refractory bricks are subject to the AD and CVD orders on bricks from China.[1] For a complete description of the events that followed the initiation of this inquiry, *see* the Preliminary Decision Memorandum.[2] A list of topics included in the Preliminary Decision Memorandum is included as the appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Orders

The merchandise covered by the *Orders* is magnesia carbon bricks. For a complete description of the scope of the *Orders, see* the Preliminary Decision Memorandum.

Merchandise Subject to the Covered Merchandise Inquiry

The products subject to this inquiry are refractory bricks which were imported by Fedmet Resources Corporation (Fedmet). CBP's laboratories tested 11 samples from these bricks and provided the results of chemical composition tests for the merchandise in its referral to Commerce.

Methodology

Commerce is conducting this covered merchandise inquiry in accordance with section 517 of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.227. For a full description of the methodology underlying Commerce's preliminary results, *see* the Preliminary Decision Memorandum.

Preliminary Findings

We preliminarily determine, pursuant to 19 CFR 351.227(f), that certain bricks tested by CBP laboratories do not constitute (non-subject) MAC bricks and are subject to the scope of the *Orders.* Although we can make such a determination for two of the eleven brick samples, the information on the remaining nine samples is indeterminate regarding the proper scope classification for the underlying product tested by CBP. In reaching this preliminary determination, we relied on information placed on the record by the Magnesia Carbon Bricks Fair Trade Committee and Fedmet, as well as the documents included with the referral from CBP. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Suspension of Liquidation

As stated above, Commerce has made a preliminary affirmative finding that certain bricks tested by CBP, which were the subject of this referral from CBP, are subject to the scope of the *Orders.* This affirmative in-scope finding applies on a country-wide basis, regardless of the producer, exporter, or importer, to all products from the same country with the same relevant physical characteristics as the products at issue. Therefore, in accordance with 19 CFR 351.227(l)(2), Commerce will direct CBP to: (1) continue the suspension of liquidation of previously suspended entries and apply the applicable cash deposit rate; (2) begin the suspension of liquidation and require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the product not yet suspended, entered, or withdrawn from warehouse, for consumption on or after July 20, 2022, the date of publication of the notice of initiation of this covered merchandise inquiry in the **Federal Register**; and (3) begin the suspension of liquidation and require a cash deposit of estimated duties, at the applicable rate, for each unliquidated entry of the product not yet suspended, entered, or withdrawn from warehouse, for consumption prior to July 20, 2022.[3]

[1] *See Certain Magnesia Carbon Bricks from the People's Republic of China: Notice of Covered Merchandise Referral and Initiation of Covered Merchandise Inquiry,* 87 FR 43238 (July 20, 2022) (*Initiation Notice*); *see also Certain Magnesia Carbon Bricks from Mexico and the People's Republic of China: Antidumping Duty Orders,*75 FR 57257 (September 20, 2010); and *Certain Magnesia Carbon Bricks from the People's Republic of China: Countervailing Duty Order,* 75 FR 57442 (September 21, 2010) (collectively, *Orders*).

[2] *See* Memorandum, ''Certain Magnesia Carbon Bricks from the People's Republic of China: Decision Memorandum for the Preliminary Results of Covered Merchandise Inquiry—EAPA Inv. 7412,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[3] *See Initiation Notice.*

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Pursuant to 19 CFR 351.227(d)(3), interested parties may submit case briefs no later than seven days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date of filing for case briefs.[4] Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[5] Executive summaries should be limited to five pages total, including footnotes.[6] All submissions, with limited exceptions, must be filed electronically using ACCESS.[7] Comments must be received successfully in their entirety by ACCESS by 5:00 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[8] Each submission must be placed on the record of the segment of the proceeding for the AD order (A–570–954), ACCESS Covered Merchandise Inquiry segment ''EAPA—7412.''

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically and received successfully in its entirety via ACCESS by 5:00 p.m. Eastern Time within 10 days after the date of publication of this notice.[9] Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; (3) whether any participant is a foreign national; and (4) a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Notification to Interested Parties

This notice is issued and published pursuant to section 517 of the Act and 19 CFR 351.227(e)(1).

Dated: February 10, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2023–03324 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC781]

Atlantic Coastal Fisheries Cooperative Management Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

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

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. The Exempted Fishing Permit would allow commercial fishing vessels to fish outside fishery regulations in support of research conducted by the applicant. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act and the Atlantic Coastal Fisheries Cooperative Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

DATES: Comments must be received on or before March 6, 2023.

ADDRESSES: You may submit written comments by any of the following methods:

- *Email: nmfs.gar.efp@noaa.gov.* Include in the subject line ''NHFG Early Benthic-Phase Lobster Trap EFP.''

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

SUPPLEMENTARY INFORMATION: The New Hampshire Fish and Game Department submitted a complete application for an Exempted Fishing Permit (EFP) to conduct commercial fishing activities that the regulations would otherwise restrict. The EFP would allow the Department to continue pilot testing of early benthic-phase (EBP) lobster traps, which target lobsters between 15- and 50-mm carapace length, to determine their feasibility for broader use in lobster surveys. This EFP would exempt the participating vessel from the Federal regulations described in Table 1.

TABLE 1—REQUESTED EXEMPTIONS

Citation	Regulation	Need for exemption
50 CFR 697.21(c) and § 697.21(d)	Gear specification requirements	To allow for the use of modified traps with no escape vents or ghost panels.
§ 697.19	Trap limit requirements	To allow for one additional trap.
§ 697.19(j)	Trap tag requirements	To allow for the use of four untagged traps.
§§ 697.20(a)(7), 697.20(a)(8), 697.20(b)(5), 697.20(b)(6), 697.20(d), and 697.20(g).	Possession restrictions	To allow for onboard biological sampling of undersized, oversized, v-notched, and egg-bearing lobsters.
§ 697.21(a)	Gear identification and marking requirements.	To allow for the use of four unmarked traps.

[4] *See* 19 CFR 351.227(d)(3); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19; Extension of Effective Period,* 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

[5] *See* 19 CFR 351.309(c)(2) and (d)(2).

[6] *Id.*

[7] *See* 19 CFR 351.303.

[8] *See Temporary Rule.*

[9] Commerce is exercising its discretion under 19 CFR 351.310(c) to alter the time limit for requesting a hearing.

This project would use one federally permitted lobster vessel to pilot test the use of four EBP lobster traps in Lobster Management Area 3 (Statistical Areas 561, 562, and 522). The EBP traps are 80-cm square traps based on a modified crawfish trap. They have four square openings, measuring less than two inches (5.08 cm), which lead to ramps that drop the lobsters into a baited kitchen. Inside the traps, there are additional ramps that lead the lobsters to four cylindrical parlors with vertical openings. The traps are attached to cement runners that provide weight and maintain proper orientation.

The participants would place two EBP traps each on two of their existing trawls and haul them twice per trip during the course of the vessel's normal fishing activity. The vessel would take between 9 and 13 experimental trips, lasting from 7 to 12 days, between May 15 and November 15, 2023. The crew would rig the EBP traps within Atlantic Large Whale Take Reduction Plan-compliant commercial trawls, resulting in no additional end lines. The vessel would fish one trap above its 2023 allocation, but would remain within the universal Area 3 trap cap. Researchers would allow up to 144 total hauls, but expect 72 to 104 hauls. At each haul, the crew would record, and immediately release, all bycatch and measure, sex, and release all lobsters from the EBP trap. They would also sample catch in two standard traps per trawl (four total) as control data. They would land and sell the legal catch from the standard traps.

The goal of this project is to test the selectivity of the EBP trap (versus ventless traps that often catch eel and crab) and the scalability of its use. If successful, EBP traps could be used in lobster surveys to provide information about larval-settlement patterns and juvenile nursery grounds.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

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

Dated: February 13, 2023.

Jennifer M. Wallace,

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

[FR Doc. 2023–03321 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC782]

Marine Mammals; File No. 27099

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 Pacific Whale Foundation (Responsible Party: Jens Curie), 300 Ma'alaea Rd. Ste. 211, Wailuku, Hawaii 96793, has applied in due form for a permit to conduct research on 22 species of cetaceans within waters of the Hawaiian Islands.

DATES: Written, telefaxed, or email comments must be received on or before March 20, 2023.

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. 27099 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. 27099 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: Courtney Smith, Ph.D., or Erin Markin, 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.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant proposes to harass up to 1200 of the following cetaceans species, annually, during vessel, underwater, and Unoccupied Aerial Systems (UAS) surveys within waters of the Main Hawaiian Islands: Blainville's beaked (*Mesoplodon densirostris*), Bryde's (*Balaenoptera brydei*), Cuvier's beaked (*Ziphius cavirostris*), dwarf sperm (*Kogia sima*), false killer (*Pseudorca crassidens;* including the endangered Main Hawaiian Islands insular Distinct Population Segment), fin (*Balaenoptera physalus*), humpback (*Megaptera novaeangliae*), killer (*Orcinus orca*), melon-headed (*Peponocephala electra*), minke (*Balaenoptera acutorostrata*), pygmy killer (*Feresa attenuata*), pygmy sperm (*Kogia breviceps*), short-finned pilot (*Globicephala macrorhynchus*), and sperm (*Physeter macrocephalus*) whales; and common bottlenose (*Tursiops truncatus*), Fraser's (*Lagenodelphis hosei*), pantropical spotted (*Stenella attenuata*), Risso's (*Grampus griseus*), rough-toothed (*Steno bredanensis*), short-beaked common (*Delphinus delphis*), spinner (*Stenella longistrostris longirostris*), and striped (*Stenella coeruleoalba*) dolphins. The objective of research is to assess the human impacts on, and the distribution, abundance, social organization, population structure, population size, foraging, diet, reproduction, movements, habitat use, body condition, health, and behavior of Hawaiian cetaceans. Proposed research procedures include photo-ID, photogrammetry, underwater filming, suction-cup tagging, biopsy collection, fecal sampling, sloughed skin collection, and exhaled air sample collection. Up to 10 suction-cup tags and up to 40 biopsy samples may be taken from the above listed species. The permit would be valid for 5 years from the date of issuance.

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: February 13, 2023.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–03365 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC771]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Notice of receipt of application; 7 permit renewals, 1 permit modification, and 9 new permits.

SUMMARY: Notice is hereby given that NMFS has received 17 scientific research permit application requests relating to Pacific salmon, steelhead, green sturgeon, rockfish, and eulachon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts. The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.*

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on March 20, 2023.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent via fax to 503–230–5441 or by email to *nmfs.wcr-apps@noaa.gov* (include the permit number in the subject line of the fax or email).

FOR FURTHER INFORMATION CONTACT: Shivonne Nesbit, Portland, OR (ph.: 541–805–5320), email: *Shivonne.Nesbit@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): Threatened Lower Columbia River (LCR); threatened Puget Sound (PS); threatened Snake River (SnkR) spring/summer-run; threatened SnkR fall-run; endangered Upper Columbia River (UCR) spring-run; threatened Upper Willamette River (UWR), threatened Central Valley spring-run (CVS); endangered Sacramento River (SacR) winter-run; threatened California Coastal (CC).

Steelhead (*O. mykiss*): Threatened LCR; threatened Middle Columbia River (MCR); threatened PS; threatened SnkR; threatened UCR; threatened UWR; threatened Northern California (NC); threatened Central California Coast (CCC); threatened California Central Valley (CCV); threatened South-Central California Coast (S–CCC); endangered Southern California (SC).

Chum salmon (*O. keta*): Threatened Hood Canal Summer-run (HCS), threatened Columbia River (CR).

Coho salmon (*O. kisutch*): Threatened LCR; threatened Oregon Coast (OC) coho; threatened Southern Oregon/Northern California Coast (SONCC), endangered Central California Coast (CCC).

Sockeye salmon (*O. nerka*): Endangered SnkR; Threatened Ozette Lake (OL).

Eulachon (*Thaleichthys pacificus*): Threatened southern Distinct Population Segment (SDPS).

Green sturgeon (*Acipenser medirostris*): Threatened southern Distinct Population Segment (SDPS).

Rockfish (*Sebastes spp.*): Endangered Puget Sound/Georgia Basin (PS/GB) DPS bocaccio (*Sebastes paucispinis*); threatened PS/GB DPS yelloweye rockfish (*S. ruberrimus*).

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et. seq*) and regulations governing listed fish and wildlife permits (50 CFR 222–226). NMFS issues permits based on findings that such permits: (1) are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see **ADDRESSES**). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 1134–8R

The Columbia River Inter-Tribal Fish Commission (CRITFC) is seeking to renew for 5 years a permit under which they have been conducting research for more than 20 years. The permit would continue covering three study projects that, among them, would annually take adult and juvenile SnkR steelhead and spring/summer-run Chinook salmon in the Snake River basin. There have been some significant changes in the research over the last ten years, nonetheless, the projects proposed are essentially continuations of ongoing research. They are: Project 1—Cryopreservation of Spring/summer Chinook Salmon and Summer Steelhead Gametes; Project 2—Snorkel, Seine, fyke net, Minnow Trap, and Electrofishing Surveys and Collection of Juvenile Chinook Salmon and Steelhead; and Project 3—Juvenile Anadromous Salmonid Emigration Studies Using Rotary Screw Traps. Under these tasks, listed adult and juvenile salmon would be variously (1) observed/harassed during fish population and production monitoring surveys; (2) captured (using dip nets, seines, trawls, traps, hook-and-line angling equipment, and electrofishing equipment) and anesthetized; (3) sampled for biological information and tissue samples; (4) tagged with passive integrated transponders (PIT-tags) or tagged with other identifiers, and (5) released. It should be noted that in the past, this permit covered five projects instead of three and authorized a great deal more adult and juvenile take of both species than it would under this proposed action.

The research has many purposes and would benefit listed salmon and steelhead in different ways. In general, the studies are part of ongoing efforts to monitor the status of listed species in the Snake River basin and to use those data to inform decisions about land- and fisheries management actions and to help prioritize and plan listed species recovery measures. Under the proposal, the studies would continue to benefit listed species by generating population abundance estimates; providing information on adult and juvenile salmon and steelhead life histories in the in the Snake, Salmon, Clearwater, Grande Ronde, and Imnaha River subbasins; and helping preserve listed salmon and steelhead genetic diversity. The CRITFC researchers do not intend to kill any of the fish being captured, but a small percentage may die as a result of the research activities.

Permit 15573–4R

The Glenn-Colusa Irrigation District (GCID) is seeking to renew for 5 years a research permit that would authorize them to take juvenile SacR winter-run Chinook salmon, CVS Chinook salmon, CCV steelhead, SDPS green sturgeon in the Sacramento River, CA. The study's purpose is to monitor restoration actions and to detect annular and cyclic population changes. The GCID project provides the longest and most complete anadromous fish data set on the Sacramento River. As a result, the research would benefit the affected species by informing operational decisions for state and Federal water facilities and supplementing other out-migrant monitoring projects conducted in the Sacramento River Basin.

The researchers propose to use a rotary screw trap to capture the targeted fish. A subsample of captured juveniles would be anesthetized, tissue-sampled, PIT-tagged and released. All juvenile fish would be captured, handled (anesthetized, weighed, measured, and checked for marks or tags), and released. The researchers are not proposing to kill any of the listed fish being captured, but a small number of fish may be killed as an inadvertent result of these activities.

Permit 15824–3R

The County of Santa Cruz is seeking to renew for 5 years a research permit that currently allows them to take juvenile CCC coho, CCC steelhead, and S–CCC steelhead in the San Lorenzo River and its tributaries, Aptos Creek and its tributaries, Corralitos Creek and its tributaries, and Soquel Creek and its tributaries. The study's purpose is to document habitat conditions and collect data on juvenile salmonid abundance in Santa Cruz County watersheds. The research would benefit the affected species by providing data on salmonid spawning and rearing habitat conditions and thereby help inform habitat restoration and conservation efforts and land and water use decisions.

The researchers at Santa Cruz County propose to use backpack electrofishing and beach seines to capture fish and to observe fish during snorkel surveys. Captured fish would be anesthetized, identified to species, measured, PIT tagged, have a tissue sample taken for genetic analysis (fin clip and scales), and allowed to recover before being released back to the stream. The researchers do not intend to kill any listed fish, but some may die as an inadvertent result of the research.

Permit 16303–3R

The United States Geological Survey (USGS) is seeking to renew a research permit that allows them to take juvenile PS/GB DPS bocaccio, juvenile HCS chum salmon, juvenile PS steelhead, and juvenile, subadult, and adult PS Chinook salmon throughout the marine waters of Puget Sound, Hood Canal, and the Strait of Juan de Fuca (Washington State). The USGS research may also cause them to take adult SDPS eulachon and juvenile PS/GB DPS yelloweye rockfish—species for which there are currently no ESA take prohibitions. The purpose of the USGS study is to examine salmonid stage-specific growth, as well as bioenergetics, competition, and predation during the early marine growth period. Additionally, unlisted salmonid species, herring, and other forage fish species would be studied for the potential effects arising from fluctuations in temporal-spatial food supplies, temperature, competition, and predation. This research would benefit the affected species by quantifying key factors limiting survival and production of Chinook salmon (particularly during juvenile outmigration and the first marine growing season) and advancing knowledge of the ecological role and contribution that the little-studied resident Chinook salmon make to Puget Sound Chinook salmon populations as a whole.

The USGS proposes capturing fish by beach seine, purse seine, Lampara seine, and micro-trolling (*i.e.,* hook-and-line angling). All captured, viable subadult or adult salmon and any rockfish would be released as swiftly as possible. Listed rockfish would be released via rapid submergence to their capture depth to reduce the effects from barotrauma, and sub-adult/adult salmonids would be released at the surface. Under all capture methods, the juvenile salmonids would be anesthetized, identified to species, checked for coded wire tags (CWTs), measured to length, gastric-lavaged, tissue-sampled (fin clip and scales), and released. All juvenile, hatchery-origin, CWT fish (marked and unmarked) captured during the seining would be intentionally sacrificed to determine their origins. The researchers also propose to intentionally kill small numbers of hatchery- and natural-origin juvenile Chinook salmon for otolith collection and whole-body chemical analyses. Additionally, a small number of listed fish may die as an unintended result of the activities.

Permit 21061–2R

Windward Environmental is seeking to renew a permit that would authorize them to take juvenile and adult PS steelhead and Chinook salmon and juvenile PS/GB DPS bocaccio in order to establish baseline Lower Duwamish Waterway-wide concentrations of contaminants in non-listed resident fish species and evaluate how well this superfund site is progressing toward meeting the cleanup target tissue concentrations set by the Environmental Protection Agency (EPA). The research may also cause unintentional take of juvenile PS/GB DPS yelloweye rockfish—a species for which there are currently no ESA take prohibitions. The information would be used to determine progress towards cleanup goals for the Lower Duwamish Waterway and inform future sediment remediation efforts. This information would benefit listed species ESA-listed species by confirming where contaminated areas are and how concentrated contaminants continue to be within the Lower Duwamish River, and whether cleanup activities to date have been successful in reducing contaminant concentrations in resident fish species and their invertebrate prey. This information will also inform future sediment remediation efforts in the Puget Sound and elsewhere.

The researchers may unintentionally capture juvenile and adult ESA-listed fish while conducting otter trawls that target sole and surfperch. All captured juvenile or adult ESA-listed fish captured would be identified, enumerated, and immediately released at the location of capture. The researchers would also deploy crab traps targeting Dungeness crab, although neither juvenile nor adult ESA-listed fish are expected to be unintentionally captured by this gear. The researchers do not intend to kill any listed fish, but some may die as an inadvertent result of the proposed activities.

Permit 22093–2R

Under permit 22093–2R the Snoqualmie Valley Watershed Improvement District (SVWID) is seeking to renew a permit that would authorize them to take adult and juvenile PS Chinook salmon and PS steelhead in order to assess the presence or absence of fish in various streams and agricultural drainage ditches within the boundary of the SVWID. This information will better inform plans to improve drainage, minimize flooding, and restore salmon habitat. Data and observations gathered through this research will also benefit ESA-listed species by providing data that will inform researchers about the status of these species in agricultural drainage ditches and small streams that may not otherwise be studied.

Juveniles would be collected via backpack electrofishing, beach seining, and minnow traps. Adults would be

collected via beach seine. Fish would be captured, handled (weighed, measured, and checked for marks or tags), and released. The researchers are not proposing to kill any of the listed fish being captured, but a small number of fish may be killed as an inadvertent result of these activities.

Permit 22998–2R

The United States Fish and Wildlife Service (FWS) is seeking to renew a permit that would once again authorize them to annually take juvenile PS Chinook salmon and steelhead and adult HCS chum salmon in streams and waterbodies on the Kitsap Peninsula (Kitsap County, WA). The purpose of the study is to determine where in those waterbodies ESA-listed salmonids are present. That information would be used help guide future land use management and fulfill requirements in the Navy Base Kitsap's Natural Resource Management Plan. This research would benefit the affected species by helping guide habitat restoration and providing baseline information on species distribution. Currently, there is little information about the distribution of ESA-listed salmonids on Navy Base Kitsap lands.

The FWS would use backpack electrofishing equipment, beach seines, and dip nets to capture the juvenile fish. For electrofishing, the captured fish would be anesthetized with tricaine methanesulfonate (MS–222), identified by species, measured for length, weighed, allowed to recover, and released. For beach seines and dip netting, the captured fish would only be identified by species and swiftly released. The researchers would also conduct snorkel surveys for juvenile PS Chinook salmon and steelhead, and spawner surveys in which adult chum salmon may be observed. The FWS does not intend to kill any of the fish being captured, but a small number of juveniles may die as an unintended consequence of the proposed activities.

Permit 26368–2M

Idaho State University is seeking to modify a permit that currently authorizes them to annually take juvenile MCR steelhead, SnkR spring/summer-run Chinook salmon, SnkR steelhead, UWR Chinook salmon, UWR steelhead, and OC coho salmon at more than a dozen locations from Idaho to western Oregon. The modification would entail adding some sampling locations—particularly in Washington—and therefore would also require adding small amounts of take for SDPS eulachon and sturgeon and UCR and PS Chinook and steelhead. The purpose of the research is to conduct a range-wide comparison of native Rainbow Trout population genetics and structure across much of western North America. The work would benefit listed fish by providing of information about population and subspecies structure, local biodiversity in a variety of settings, and some measure of how intra- and inter-species variability contribute to ecosystem maintenance. That information, in turn, would be used to adjust planning efforts in a manner that would account for variances in species diversity and population structure and health across a broad section of the listed species' habitat.

The juvenile fish would be collected via backpack electrofishing and hook-and-line angling. Only juvenile steelhead would be captured, handled (anesthetized, weighed, measured, and checked for marks or tags), sampled, and released. All other listed fish that may be captured would be allowed to recover in aerated water and then released immediately. The researchers are not proposing to kill any listed fish, but a small number may be killed as an inadvertent result of the proposed activities.

Permit 26714

The Oregon Department of Fish and Wildlife (ODFW) is seeking a permit to capture SnkR steelhead and spring/summer-run Chinook salmon while surveying the Wallowa River, Oregon, to better understand the distribution, relative abundance, movement ecology, and angler exploitation rates of rainbow trout and mountain whitefish in the river. This work is intended to generate important baseline information on the status and trends of native fishes in the Wallowa River and thereby improve managers' ability to conserve and manage them. The study would benefit listed salmonids by giving mangers information on (1) salmonid distribution and general habitat use in the Wallowa River, (2) the distribution and abundance of residualized hatchery steelhead, and (3) the rates at which anglers capture and handle listed juvenile steelhead/rainbow trout. This information, in turn, would be used to limit harvest rates and design recovery actions.

The researchers would use raft-mounted electrofishing equipment to capture the fish. Most of the listed Chinook and steelhead would be measured, scanned for tags and marks and immediately released. However, because they are very difficult to distinguish from non-listed rainbow trout, a small portion of the captured juvenile SnkR steelhead would also be tagged and tissue sampled before being released. In all cases, listed fish would be processed and released before any work is done on non-listed fish. Also, if an adult Chinook or steelhead fish were to be encountered, the electrofishing equipment would be turned off and the electrofishing raft would be moved before the survey is started again. The researchers do not plan to kill any fish they capture, but some may die as an unintended result of the activities.

Permit 26766

The Washington Department of Natural Resources (WDNR) is seeking a new permit to conduct fish presence/absence surveys in small streams across the state of Washington. The permit would authorize them to take juvenile PS Chinook salmon and steelhead; HC summer-run chum salmon; OL sockeye salmon; UCR steelhead and spring-run Chinook salmon; MCR steelhead; SnkR steelhead, sockeye, and spring/summer-run and fall-run Chinook salmon; LCR Chinook salmon, coho salmon and steelhead; and CR chum salmon. The purpose of the study is to survey small streams on privately held land across the state of Washington and determine what fish are present at each site. The information would be used to (a) inform landowners of the appropriate riparian management zone to follow under the state Forest Regulations and (b) identify potential fish passage barriers. Helping landowners follow the appropriate forest practice regulations would help protect crucial habitats along riparian zones. Identifying fish passage barriers would help mangers determine what barriers could be altered to increase the amount of habitat accessible to listed fish.

The juvenile fish would be collected via backpack electrofishing and the captured fish would be handled (anesthetized, weighed, measured, and checked for marks or tags), and swiftly released near the point of their capture. The researchers are not proposing to kill any listed fish, but a small number from each species may be killed as an inadvertent result of the proposed activities.

Permit 26968

The California Department of Fish and Wildlife (CDFW) is seeking a new permit that would authorize them to take juvenile SONCC coho salmon, NC steelhead, CC Chinook salmon, SacR winter-run Chinook salmon, CVS Chinook salmon, CCV steelhead, CCC coho salmon, CCC steelhead, S–CCC steelhead, SC steelhead, and adult SDPS green sturgeon in streams and rivers throughout California at pre-selected

locations. The study's purpose is to assess the condition of the rivers and streams in California and provide a baseline for future comparisons. CDFW is participating in the USEPA National Rivers and Streams Assessment (NRSA), a probability-based survey designed to assess the condition of the Nation's rivers and streams. NRSA is a keystone program in California that provides data for the National Water Quality Inventory Report to Congress (305(b) report) and fulfills the water quality monitoring requirements of the Clean Water Act.

The researchers at CDFW propose to use kick nets, backpack and boat electrofishing to capture fish. Captured fish would be handled (anesthetized, weighed, measured, and checked for marks or tags), and released. The researchers are not proposing to kill any of the listed fish being captured, but a small number of fish may be killed as an inadvertent result of these activities.

Permit 27069

Thomas Gast & Associates Environmental Consultants is seeking a new permit that would authorize them to take juvenile SacR winter-run Chinook salmon, CVS Chinook salmon, CCV Valley steelhead, and SDPS green sturgeon in a backwater area of the Sacramento River directly downstream of its confluence with Battle Creek. The study's purpose is to characterize seasonal changes and variability within the fish community in the backwater area. Data on the fish community composition will be used to inform the planning and design of an upcoming side-channel restoration project.

Juveniles would be collected via fyke net, beach seine, and minnow trap and observed during snorkel surveys. Juvenile fish would be captured, handled (anesthetized, weighed, measured, and checked for marks or tags), and released. The researchers are not proposing to kill any of the listed fish being captured, but a small number of fish may be killed as an inadvertent result of these activities.

Permit 27091

The Port of Seattle is seeking a permit that would allow them to take juvenile PS steelhead and Chinook salmon while conducting survey work designed to examine ecological response to restoration actions that have been undertaken in the lower Duwamish River waterway in Washington state. The purpose of the work is to fulfill the conditions found in the habitat-restoration component of a Natural Resources Damage Assessment claim made against the Port of Seattle. It would benefit the listed salmon and steelhead by ensuring the habitat they use in the lower Duwamish functions to promote their survival; it would also help the listed species by helping guide similar habitat restoration actions elsewhere in the Puget Sound and beyond.

All captured salmonids would be sedated with MS–222 and identified by species, weighed and measured to the nearest millimeter (fork length). Once measured and weighed, the fish would be placed into a recovery bucket and be transported to the bank of the Duwamish River and released downstream of the capture site. The process would be halted if the fish appear to be overly stressed, or recovery times are unusually long. Any fish with coded wire tags or that have had their adipose fins clipped would be noted in order to calculate the ratio of natural-origin to hatchery fish in the lower Duwamish River. The researchers do not intend to kill any of the fish being captured, but a small number may die as an unintended consequence of the proposed activities.

Permit 27098

The WDNR is seeking a new permit that would authorize them to annually take juvenile UCR steelhead and spring-run Chinook salmon; MCR steelhead; SnkR steelhead, sockeye, and spr/sum and fall-run Chinook salmon; LCR Chinook salmon, coho salmon and steelhead; UWR Chinook salmon and steelhead; and CR chum salmon. The permit would also allow them to take adult and juvenile SDPS eulachon—a species for which there are currently no take prohibitions. Under the permit, the WDNR researchers would monitor, track, trap, and remove invasive European green crabs on WDNR aquatic lands in the Puget Sound and lower Columbia River. The purpose of the research is to explore the best means of locating and eliminating European green crab incursions, and it will benefit listed salmonid (and other) species by guiding long-term management actions designed protect their critical habitat.

The researchers would use modified shrimp and minnow traps placed in the estuarine and marine intertidal and subtidal waters in the Puget Sound and lower Columbia River. The researchers do not actually expect to catch any listed salmonids or eulachon; nonetheless, all traps will be checked very regularly and any listed animals that are captured will be swiftly released without further handling. The researchers do not intend to kill any of the fish being captured, but a small number may die as an unintended consequence of the proposed activities.

Permit 27129

The USGS is seeking a new permit to monitor toxic chemical contamination levels in resident fish sampled in the Bonneville pool (reservoir) on the Columbia River. The permit would authorize them to take juvenile and adult UCR steelhead and spring-run Chinook salmon; MCR steelhead; SnkR steelhead, sockeye, and spring/summer-run and fall-run Chinook salmon; LCR Chinook salmon, coho salmon, and steelhead; and CR chum salmon. The purpose of the research is to conduct long-term monitoring to assess the spatial and temporal status and trends of toxics in fish, water, sediment, and other potential media in the Columbia River mainstem—eventually from Bonneville Dam to the Canadian Border. While the work does not target listed fish, it would benefit them by providing information to help state, tribal and federal mangers plan restoration and remediation actions designed to improve ecosystem function and reduce contaminants in all levels of the food chain.

The researchers would use a variety of means to capture the fish. The main methods would be fyke and hoop nets, minnow traps and nets, longlines, and angling. If these methods prove insufficient to gathering the needed resident fish samples, boat electrofishing may possibly be employed. All adult listed fish would be avoided, and any that are captured would immediately be released. Captured juvenile fish Juvenile fish would also be minimally handled and released without any data being collected on them. The researchers are not proposing to kill any listed fish, but a small number from each species may be killed as an inadvertent result of the proposed activities.

Permit 27162

Under permit 27162 the WDNR (Olympic Region) is seeking a new permit that would authorize them to take juvenile PS Chinook salmon, PS steelhead, HCS chum salmon, and OL sockeye salmon in streams on WDNR land on the Olympic Peninsula (Clallam, Jefferson, and Grays Harbor counties in Washington) in order to determine listed fish presence or absence in small streams. The information gathered would be used to determine salmonid presence and distribution and thereby inform land management decisions on WDNR holdings. This information would benefit listed species by helping WDNR identify existing man-made fish barriers that should be removed or replaced with

structures that fish can pass over or through, and support a region-wide program of road maintenance and other forest management activities in the vicinity of streams. Confirming which streams currently support ESA-listed fish species would help prioritize those locations for restoration actions.

Juvenile salmonids would be collected via backpack electrofishing, handled (anesthetized, weighed, measured, identified, and checked for marks or tags), and released back to the waters from which they came. In some cases, the researchers may not actually capture any fish but would merely note their presence, however electrofishing where listed species are observed would still be reported as take. The researchers are not proposing to kill any of the listed fish being taken, but a small number may be killed as an inadvertent result of these activities.

Permit 27212

Oregon State University is seeking a new permit to survey waters across the pacific Northwest with the intent of mapping sculpin diversity and distribution across that range. The permit would authorize them to take juvenile PS Chinook salmon and steelhead; HCS chum salmon; UCR steelhead and spring-run Chinook salmon; MCR steelhead; SnkR steelhead, sockeye, and spring/summer-run and fall-run Chinook salmon; LCR Chinook salmon, coho salmon and steelhead; UWR Chinook salmon; CR chum salmon; and SDPS eulachon. The purpose of the study is to map sculpin diversity and distribution, but it would also benefit listed salmonids. Improved data on the listed species' distribution, movement, and life histories would help direct the efforts recommended in each of the species' recovery plans. Moreover, the project would generate presence/absence data to help fill the need to monitor ecosystem health and the distribution, population status, and migratory movements of all the of listed species that may be encountered.

The fish would be collected via backpack electrofishing and beach seine; with the exception of SDPS eulachon, no adults would be taken. All captured listed fish would be handled briefly (identified and recorded) and immediately released back to the stream of their origin. The researchers would reduce possible harm to listed salmonids by: (1) avoiding sampling in the heat of the day or during spawning times, (2) surveying sample plots in advance for any listed fish, (3) using the lowest feasible settings on the electroshocker, (4) using the gentler seine net when possible, and (5) consulting with district biologists to get their advice on how to minimize harm to endangered and threatened species at each site. The researchers are not proposing to kill any listed fish, but a small number of each species may be killed as an inadvertent result of the proposed activities.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations. The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register.**

Dated: February 13, 2023.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–03336 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC783]

Marine Mammals; File No. 27225

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 Sea Research Foundation, Inc. dba Mystic Aquarium, 55 Coogan Boulevard, Mystic, CT 06355 (Responsible Party: Katie Cubina), has applied in due form for a permit to collect, receive, import, and export marine mammal parts for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before March 20, 2023.

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. 27225 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. 27225 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.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant proposes to collect, receive, import, and export parts from a maximum of 5,000 cetaceans and 5,000 pinnipeds (except walrus) annually. Sources of foreign and domestic parts may include subsistence harvests, captive animals, other authorized researchers or curated collections, bycatch from legal commercial fishing operations, and foreign stranded animals. Samples would be analyzed for research related to marine mammal health (*e.g.,* neuroimmunology, microbiomes and diving physiology), including the creation and use of cell lines. The permit would be valid for 5 years from the date of issuance.

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: February 13, 2023.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–03369 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC777]

Marine Mammals; File No. 27246

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Yara Bernaldo de Quirós, Ph.D., University of Colorado Boulder, Boulder, CO 80309, has applied in due form for a permit to receive parts from bottlenose dolphins (*Tursiops truncatus*) for scientific research.

DATES: Written, telefaxed, or email comments must be received on or before March 20, 2023.

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. 27246 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. 27246 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 receive parts from the National Marine Mammal Tissue Bank from up to 20 bottlenose dolphins. These parts will be used to study the arterial function of dolphins with aging. The permit would be valid for 1 year from the date of issuance.

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: February 13, 2023.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–03368 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel Meeting, February 28–March 2, 2023

AGENCY: Office of Coast Survey, National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of public meeting and opportunity to comment.

SUMMARY: This serves as the notice of a public meeting for the NOAA Hydrographic Services Review Panel (HSRP) on February 28, 2023, 9 a.m.–5:30 p.m., Atlantic Standard Time (AST), March 1, 2023, 8:30 a.m.–12 p.m. AST, and March 2, 2023 8:30 a.m.–5 p.m. AST. The agenda for the HSRP public meeting will be posted in advance of the meeting on the HSRP website. Individuals or groups who want to comment on NOAA navigation services topics are encouraged to submit advance public comments via email or via the question function in the webinar for the HSRP public meeting.

1. February 28, 2023, 9 a.m.–5:30 p.m. AST
2. March 1, 2022, 8:30 a.m.–12 p.m. AST
3. March 2, 2022, 8:30 a.m.–5 p.m. AST

ADDRESSES: Instructions for how to register to attend the HSRP public meeting in person and virtually may be found at the following website: *https://register.gotowebinar.com/register/6410170809731828061.* The HSRP public meeting agenda, draft meeting documents, presentations, and background materials are posted and updated online and can be found at the following websites: *https://www.nauticalcharts.noaa.gov/hsrp/hsrp.html* and *https://www.nauticalcharts.noaa.gov/hsrp/meetings.html.* The agenda is subject to change. Past HSRP recommendation letters, issue and position papers may be found online at: *https://www.nauticalcharts.noaa.gov/hsrp/recommendations.html.*

Comments may be submitted by one of the following methods: Email: Send written comments in advance of the HSRP public meeting to *Virginia.Dentler@noaa.gov, Melanie.Colantuno@noaa.gov,* and *hydroservices.panel@noaa.gov,* with ''February–March 2023 HSRP meeting public comments'' in the subject line of the email message. Webinar: Submit written comments during the HSRP public meeting through the HSRP webinar's question function.

FOR FURTHER INFORMATION CONTACT: Lynne Mersfelder-Lewis, HSRP Program Manager, Office of Coast Survey, NOS, NOAA, email: *hydroservices.panel@noaa.gov, Lynne.Mersfelder@noaa.gov,* and phone 302–648–2963.

SUPPLEMENTARY INFORMATION: The Hydrographic Services Improvement Act of 1998 (HSIA), as amended (33 U.S.C. 892 *et seq.*), established the HSRP as a Federal Advisory Committee (33 U.S.C. 892c) to advise the NOAA Administrator ''on matters related to the responsibilities and authorities set forth in [33 U.S.C. 892a]'' of the HSIA, ''and such other matters as the Administrator refers to the [HSRP] for review and advice.

The HSRP regularly discusses stakeholder's feedback and NOAA invites public comments in advance and during the upcoming HSRP public meeting on the use of NOAA's navigation, observations and positioning data, science, products, and services for NOS's Center for Operational Oceanographic Products and Services, National Geodetic Survey, Office of Coast Survey, and the University of New Hampshire's and NOAA's Joint Hydrographic Center at the Center for Coastal and Ocean Mapping. Public comments sent in advance of the HSRP public meeting will be shared with the HSRP members, posted on the meeting website, and included in the public record for the meeting. Due to the condensed nature of the meeting, each individual or group providing written public comments will be limited to one comment of three minutes per public comment period, with no repetition of previous comments. Individuals and groups may also submit public comments during the public comment period through the webinar's question

function. Comments will be read into the record as time allows and will become part of the meeting record. Due to time constraints, all comments may not be addressed during the meeting.

Matters To Be Considered

The HSRP members will focus on the mission and issues relevant to NOAA's navigation, observations, and positioning services, and the value these services bring, and invite stakeholder and partner suggestions for improvements. This suite of NOAA services supports safe and efficient navigation, the blue economy, resilient coasts and communities, and the nationwide positioning information infrastructure to support America's climate needs and commerce. Specifically, the HSRP will consider:

- The status of NOAA's navigation services in the context of recent legislation (*e.g.,* the National Defense Authorization Act, Bipartisan Infrastructure Law, and Inflation Reduction Act);
- An update on the new Standard Ocean Mapping Protocol and the plans to address and implement the ocean and coastal mapping strategy for ''Establishing a National Strategy for Mapping, Exploring, and Characterizing the United States Exclusive Economic Zone'';
- Measuring, monitoring, and mitigating flooding and sea level change and the contribution of NOAA's critical foundational data to projects in the U.S. Caribbean;
- NOAA navigation data, products, and services that will enable further economic growth and address safe navigation;
- The geodesy education and training crisis;
- The exploration of possible benefits and applicability of the new Digital Twin technology to help manage coastal mapping data, maritime navigation, fleet management and related applications. The Digital Twin utilizes artificial intelligence, deep learning, data analytics and modeling to maximize use of tremendous amounts of data;
- Other topics related to the NOAA programs and activities may be discussed such as those for: hydrographic surveys, bathymetric mapping and modeling, nautical charting, coastal shoreline and ocean mapping, the National Spatial Reference System modernization efforts, tide and water level observations, current observations, contributions to resilience and coastal data and information systems to support planning for climate change, flooding, inundation, contributions to the blue economy, coastal and ocean modeling and remote sensing, PORTS® (Physical Oceanographic Real-Time System) sensor enhancements and expansion, Precision Marine Navigation, the transition from raster paper charts to Electronic Navigational Charts, geodetic observations, gravity modeling, geospatial and LIDAR data; and
- The scientific mapping and technology research projects of the cooperative agreements between NOAA and partners at the University of New Hampshire and the University of South Florida.

Special Accommodations

This public meeting is accessible to people with disabilities and there will be sign language interpretation and captioning services. Please direct requests for other auxiliary aids to *Melanie.Colantuno@noaa.gov* at least 10 business days in advance of the meeting.

Benjamin K. Evans,

Rear Admiral (lower half), Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2023–03449 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC772]

Caribbean Fishery Management Council's District Advisory Panels; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council's (Council) District Advisory Panels (DAPs) will hold public meetings to address the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION**.

DATES: The meetings will be held March 8, March 29 and April 11, 2023. All meetings will be held from 9 a.m. to 4 p.m., Atlantic Standard Time (AST).

ADDRESSES: The DAPs public meetings will be held as follows:

March 8, 2023—St. Thomas/St. John DAP—Windward Passage Hotel 3100 Kronprindsens Tvaer, Charlotte Amalie, St. Thomas, U.S.V.I.;

March 29, 2023—St. Croix DAP—Buccaneer Hotel, 5007 Estate, Christiansted, St. Croix, U.S.V.I.; and

April 11, 2023—Puerto Rico DAP—Courtyard Isla Verde Beach Resort, Carolina, Puerto Ric, 7012 Boca de Cangrejos Avenue, Carolina, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Miguel Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 398–3717.

SUPPLEMENTARY INFORMATION: The items included in the tentative agenda are:

—Call to Order
—Roll Call
—Adoption of Agenda
—Island-Based FMPs Presentation for each Area (St. Thomas/St. John, St. Croix, Puerto Rico)—Dr. Graciela Garcia-Moliner
Outreach & Education Related to Island-Based FMPs—Dr. Alida Ortiz
—Other Business

All meetings will be discussing the same agenda items.

Other than the starting date and time, the order of business may be adjusted as necessary to accommodate the completion of agenda items, at the discretion of the Chair.

Special Accommodations

Simultaneous interpretation will be provided for the DAP–PR, on April 11, 2023. For simultaneous interpretation English-Spanish-English.

For any additional information on this public virtual meeting, please contact Diana Martino, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone: (787) 226–8849.

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

Dated: February 13, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–03338 Filed 2–16–23; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds product(s) and service(s) to the Procurement List

that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to and deleted from the Procurement List:* March 19, 2023.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 10/28/2022 and 12/9/2022, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product(s) and service(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the product(s) and service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product(s) and service(s) to the Government.

2. The action will result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are added to the Procurement List:

Product(s)

NSN(s)—Product Name(s):
8465–01–082–6449—Cap Strap, Water Canteen, Olive Drab
8465–00–NIB–0290—Cap Strap, Water Canteen, 483 Green
Designated Source of Supply: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA
Mandatory for: 100% of the requirement of the Department of Defense
Contracting Activity: DEFENSE LOGISTICS AGENCY, DLA TROOP SUPPORT
Distribution: C-List

Service(s)

Service Type: Janitorial and Snow Removal
Mandatory for: FAA, ATBM, ATCT, Base Building and Interconnecting Link Walkway, South Burlington, VT
Designated Source of Supply: Northern New England Employment Services, Portland, ME
Contracting Activity: FEDERAL AVIATION ADMINISTRATION, 697DCK REGIONAL ACQUISITIONS SVCS

The Committee finds good cause to dispense with the 30-day delay in the effective date normally required by the Administrative Procedure Act. See 5 U.S.C. 553(d). This addition to the Committee's Procurement List is effectuated because of the expiration of the Federal Aviation Administration, Janitorial and Snow Removal, South Burlington, VT contract. The Federal customer contacted and has worked diligently with the AbilityOne Program to fulfill this service need under the AbilityOne Program. To avoid performance disruption, and the possibility that the Federal Aviation Administration will refer its business elsewhere, this addition must be effective on February 28, 2023, ensuring timely execution for a March 1, 2023 start date while still allowing 11 days for comment. The Committee also published a notice of proposed Procurement List addition in the **Federal Register** on October 28, 2022 and did not receive any comments from any interested persons. This addition will not create a public hardship and has limited effect on the public at large, but, rather, will create new jobs for other affected parties—people with significant disabilities in the AbilityOne program who otherwise face challenges locating employment. Moreover, this addition will enable Federal customer operations to continue without interruption.

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2023–03431 Filed 2–16–23; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed deletions from the procurement list.

SUMMARY: The Committee is proposing to delete product(s) and service(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* March 19, 2023.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 355 E Street SW, Suite 325, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following product(s) and service(s) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):
7045–01–484–1765—Mouse Pad, Calculator and Supply Storage Area, Black/Silver
Designated Source of Supply: MidWest Enterprises for the Blind, Inc., Kalamazoo, MI
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY
NSN(s)—Product Name(s):
7510–01–600–8026—Dated 2022 12-Month 2-Sided Laminated Wall Planner, 24'' x 37''
Designated Source of Supply: Chicago Lighthouse Industries, Chicago, IL
Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

Service(s)

Service Type: Sourcing, Cutting, Kitting and Fulfillment Service
Designated for: Federal Prison Industries, Washington, DC—ECWS, GEN III, Layer 6, Jacket, 400 1st Street NW, Washington, DC
Designated Source of Supply: Blind Industries & Services of Maryland, Baltimore, MD
Contracting Activity: FEDERAL PRISON SYSTEM/BUREAU OF PRISONS, CO BUSINESS OFFICE

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2023–03430 Filed 2–16–23; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 88 FR 8822, February 10, 2023.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:00 a.m., Wednesday, February 15, 2023.

CHANGES IN THE MEETING: The meeting has been canceled.

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, Secretary of the Commission, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: February 15, 2023.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2023–03524 Filed 2–15–23; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0116: Response to Notification of Termination of Exemptive Relief

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the information collection requirements associated with Commission rules governing responses to Notifications of Termination of Exemptive Relief.

DATES: Comments must be submitted on or before April 18, 2023.

ADDRESSES: You may submit comments, and ''OMB Control No. 3038–0116'' by any of the following methods:

- The Agency's website, at *https://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Andrew Chapin, Associate Chief Counsel, Market Participants Division, Commodity Futures Trading Commission, (202) 418–5465; email: *achapin@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below. 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.

Title: Response to Notification of Termination of Exemptive Relief Issued Pursuant to Regulation 30.10 (OMB Control No. 3038–0116). This is a request for extension of a currently approved information collection.

Abstract: Commission regulation 30.10 provides a process by which persons located outside the U.S. and subject to a comparable regulatory structure in the jurisdiction in which they are located to seek an exemption from certain of the requirements under Part 30 of the Commission's regulations. Regulation 30.10 codifies the process by which the Commission may terminate such exemptive relief after appropriate notice and opportunity to respond. Regulation 30.10(c)(3) provides any party affected by the Commission's determination to terminate relief with the opportunity to respond to the notification in writing no later than 30 business days following the receipt of the notification, or at such time as the Commission permits in writing. These reporting requirements are necessary for the ongoing evaluation of the effectiveness of the Commission's program for regulatory deference.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission is not revising its original estimate of the burden for this proposed renewal of collection. The respondent burden for this collection is estimated to be as follows:

Estimated Number of Respondents: 1.

Estimated Average Burden Hours per Respondent: 8.

Estimated Total Annual Burden Hours: 8.

Frequency of Collection: Once.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: February 13, 2023.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023–03347 Filed 2–16–23; 8:45 am]

BILLING CODE 6351–01–P

[1] 17 CFR 145.9.

COMMODITY FUTURES TRADING COMMISSION

Market Risk Advisory Committee

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of meeting.

SUMMARY: The Commodity Futures Trading Commission (CFTC) announces that on March 8, 2023, from 9:30 a.m. to 12:30 p.m. (Eastern Standard Time), the Market Risk Advisory Committee (MRAC or Committee) will hold an in-person public meeting at the CFTC's Washington, DC headquarters with options for the public to attend virtually. At this meeting, the MRAC will discuss current topics and developments in the areas of central counterparty risk and governance, interest rate benchmark reform, climate-related risk, market structure, and innovative and emerging technologies affecting the derivatives and related financial markets.

DATES: The meeting will be held on March 8, 2023, from 9:30 a.m. to 12:30 p.m. (Eastern Standard Time). Please note that the meeting may end early if the MRAC has completed its business. Members of the public who wish to submit written statements in connection with the meeting should submit them by March 15, 2023.

ADDRESSES: The meeting will take place in the Conference Center at the CFTC's headquarters, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 subject to CFTC facility health protocols in place at that time. You may submit public comments, identified by ''Market Risk Advisory Committee,'' through the CFTC website at *https://comments.cftc.gov.* Follow the instructions for submitting comments through the Comments Online process on the website. If you are unable to submit comments online, contact Bruce Fekrat, Designated Federal Officer, or Marilee Dahlman, Alternate Designated Federal Officer, via the contact information listed below to discuss alternate means of submitting your comments. Any statements submitted in connection with the committee meeting will be made available to the public, including publication on the CFTC website, *https://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Bruce Fekrat, MRAC Designated Federal Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581; (202) 418–5690; or Marilee Dahlman, MRAC Alternate Designated Federal Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC; (202) 247–6544.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public. Seating for the public may be limited due to the CDC's COVID–19 Community Level, which may require facilitating physical distancing to avoid overcrowding and additional restrictions. Members of the public may listen to the meeting by telephone by calling a domestic or international number to connect to a live, listen-only audio feed. Call-in participants should be prepared to provide their first name, last name, and affiliation.

Telephone

Dial (for higher quality, dial a number based on your current location): US: +1 669 254 5252 or +1 646 828 7666 or +1 646 964 1167 or +1 415 449 4000 or +1 551 285 1373 or +1 669 216 1590 or 833 435 1820 (Toll Free) or 833 568 8864 (Toll Free)
International numbers available: https://cftc-gov.zoomgov.com/u/acd9hK3Ztb
Webinar ID: 161 114 1444
Passcode: 001554

The meeting will also be open to the public via webcast on the *https://www.cftc.gov* website. The meeting agenda may change to accommodate other MRAC priorities. For agenda updates, please visit the MRAC committee site at: *https://www.cftc.gov/About/CFTCCommittees/MarketRiskAdvisoryCommittee/mrac_meetings.html.*

After the meeting, a transcript of the meeting will be published through a link on the CFTC's website, *http://www.cftc.gov.* Persons requiring special accommodations to attend the meeting because of a disability should notify the contact person above.

(*Authority:* 5 U.S.C. 1009(a)(2).)

Dated: February 13, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023–03344 Filed 2–16–23; 8:45 am]

BILLING CODE 6351–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2012–0067]

Notice of Availability and Request for Comment: Revision to the Voluntary Standard for Bedside Sleepers

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of availability and request for comment.

SUMMARY: The U.S. Consumer Product Safety Commission's (Commission or CPSC) mandatory rule, Safety Standard for Bedside Sleepers, incorporates by reference ASTM F2906–13, Standard Consumer Safety Specification for Bedside Sleepers. ASTM notified the Commission that it has revised this incorporated voluntary standard. CPSC seeks comment on whether the revision improves the safety of bedside sleepers.

DATES: Comments must be received by March 3, 2023.

ADDRESSES: Submit comments, identified by Docket No. CPSC–2012–0067, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *https://www.regulations.gov.* Follow the instructions for submitting comments. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by electronic mail (email), except as described below.

Mail/Hand Delivery/Courier/Confidential Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to *https://www.regulations.gov.* If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* and insert the docket number, CPSC–2012–0067, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Celestine Kish, Directorate for Engineering Sciences, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987–2547; email: *ckish@cpsc.gov.*

SUPPLEMENTARY INFORMATION: Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Commission to adopt mandatory standards for durable infant or toddler products. 15 U.S.C. 2056a(b)(1). Mandatory standards must be ''substantially the same as'' voluntary standards, or may be ''more stringent'' than voluntary standards, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the products. *Id.* Mandatory standards may be based, in whole or in part, on a voluntary standard.

Pursuant to section 104(b)(4)(B) of the CPSIA, if a voluntary standards organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under CPSIA section 104, it must notify the Commission. The revised voluntary standard then shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which the organization notifies the Commission (or a later date specified by the Commission in the **Federal Register**) unless, within 90 days after receiving that notice, the Commission responds to the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard, and therefore the Commission is retaining its existing mandatory consumer product safety standard. 15 U.S.C. 2056a(b)(4)(B).

Under this authority, on January 15, 2014, the Commission issued a mandatory safety rule for children's bedside sleepers (79 FR 2589). The rulemaking created 16 CFR part 1222, which incorporates by reference, with modifications, ASTM F2906–13, *Standard Consumer Safety Specification for Bedside Sleepers.* The modifications under § 1222.2(b) require that bedside sleepers be tested to the mandatory Safety Standard for Bassinets and Cradles, codified at 16 CFR part 1218.

ASTM F2906 describes bedside sleepers as products intended to provide sleeping space for an infant up to approximately 5 months of age (or when child begins to push up on hands and knees). The standard states that these products are intended to be secured to the side of an adult bed for the purpose of having a baby sleep in close proximity to an adult. The minimum required side-height for beside sleepers generally is the same as bassinets, 7.5 inches. However, for the side of the sleeper that attaches to an adult bed, the minimum side-height is 4 inches. The mandatory standard also includes performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to children associated with children's bedside sleepers.

Since publishing the 2013 version of ASTM F2906, ASTM published revisions in 2022 and 2023. ASTM published ASTM F2906–22 on October 1, 2022, to clarify side-height and attachment requirements for bedside sleepers. However, CPSC understands that ASTM discovered an error in the publication allowing for an unintended side-height exemption for the side of the product that attaches to an adult bed, for certain products, and therefore did not notify the Commission of this revision. On January 1, 2023, ASTM published a revised version of the incorporated voluntary standard, ASTM F2906–23, that removes the unintended exemption. On February 6, 2023, ASTM notified the Commission that it had approved and published ASTM F2906–23. CPSC staff is assessing the revised voluntary standard to determine, consistent with section 104(b)(4)(B) of the CPSIA, its effect on the safety of consumer products covered by the standard, namely bedside sleepers. The Commission invites public comment on that question, to inform staff's assessment and any subsequent Commission consideration of the revisions in ASTM F2906–23.[1]

The incorporated voluntary standard and the two revised voluntary standards, ASTM F2906–22 and –23, are available for review in several ways. ASTM has provided on its website (at *https://www.astm.org/CPSC.htm*), at no cost, a read-only copy of both the 2022 and 2023 revisions to ASTM F2906, including red-lined versions that identify the changes made to ASTM F2906–13 and ASTM F2906–22. Likewise, a read-only copy of the existing, incorporated standard (ASTM F2906–13) is available for viewing, at no cost, on the ASTM website at: *https://www.astm.org/READINGLIBRARY/.* Interested parties can also download copies of the standards by purchasing them from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; phone: 610–832–9585; *https://www.astm.org.* Alternatively, interested parties can schedule an appointment to inspect copies of the standards at CPSC's Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone: 301–504–7479.

Comments must be received by March 3, 2023. Because of the short statutory time frame Congress established for the Commission to consider revised voluntary standards under section 104(b)(4) of the CPSIA, CPSC will not consider comments received after this date.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2023–03262 Filed 2–16–23; 8:45 am]

BILLING CODE 6355–01–P

[1] On February 10, 2023, the Commission voted 4–0 to publish this notification.

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: Notice of federal advisory committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the DACOWITS will take place.

DATES:

Day 1—Open to the public Tuesday, March 21, 2023 from 8:00 a.m. to 12:00 p.m.

Day 2—Open to the public Wednesday, March 22, 2023 from 8:00 a.m. to 11:30 a.m.

ADDRESSES: The meeting will take place at the Association of the United States Army Conference Center, located at 2425 Wilson Boulevard, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: COL Seana Jardin, Designated Federal Officer (DFO), (571) 232–7415 (voice), *seana.m.jardin.mil@mail.mil* (email). Website: *https://dacowits.defense.gov.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C. Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Availability of Materials for the Meeting: Additional information, including the agenda or any updates to the agenda, is available at the

DACOWITS website, *https://dacowits.defense.gov/.* Materials presented in the meeting may also be obtained on the DACOWITS website.

Purpose of the Meeting: The purpose of the meeting is for the DACOWITS to receive briefings and have discussions on topics related to the recruitment, retention, employment, integration, well-being, and treatment of women in the Armed Forces of the United States.

Agenda: Tuesday, March 21, 2023, from 8:00 a.m. to 12:00 p.m.—Welcome, Introductions, Announcements, Request for Information Status Update, Briefings, and DACOWITS discussion. Wednesday, March 22, 2023, from 8:00 a.m. to 11:30 a.m.—Welcome, Introductions, Opening Remarks, Announcements, Briefings, DACOWITS discussion, and Public Comment Period.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public, subject to availability of space, from 8:00 a.m. to 12:00 p.m. on March 21, 2023; and 8:00 a.m. to 11:30 a.m. on March 22, 2023. The meeting will also be streamed by videoconference. The number of participants is limited and is on a first-come basis. Any member of the public who wishes to participate via videoconference must register by contacting DACOWITS at *osd.pentagon.ousd-p-r.mbx.dacowits@mail.mil* or by contacting Mr. Robert Bowling at (703) 380–0116 no later than Monday, March 13, 2023. Once registered, the videoconference information will be provided.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Mr. Robert Bowling no later than Monday, March 13, 2023 so appropriate arrangements can be made.

Written Statements: Pursuant to 41 CFR 102–3.140, and section 10(a)(3) of the FACA, interested persons may submit a written statement to the DACOWITS. Individuals submitting a written statement must submit their statement no later than 5:00 p.m., Monday, March 13, 2023 to Mr. Robert Bowling (703) 380–0116 (voice) or to *robert.d.bowling1.mil@mail.mil* (email). Mailing address is 4800 Mark Center Drive, Suite 04J25–01, Alexandria, VA 22350. Members of the public interested in making an oral statement, must submit a written statement. If a statement is not received by Monday, March 13, 2023 it may not be provided to or considered by the Committee during this quarterly business meeting. After reviewing the written statements, the Chair and the DFO will determine if the requesting persons are permitted to make an oral presentation. The DFO will review all timely submissions with the DACOWITS Chair and ensure they are provided to the members of the Committee.

Dated: February 14, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–03429 Filed 2–16–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Research and Engineering, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Science Board (DSB) will take place.

DATES: Closed to the public Thursday, February 16, 2023 from 8 a.m. to 4:15 p.m.

ADDRESSES: The address of the closed meeting is conference room 3A912A at the Pentagon, Washington, DC 20301.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Doxey, Designated Federal Officer (DFO) (703) 571–0081 (Voice), (703) 697–1860 (Facsimile), *kevin.a.doxey.civ@mail.mil* (Email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Room 2A528, Washington, DC 20301–3140. Website: *http://www.acq.osd.mil/dsb/.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5, U.S. Code (commonly known as the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix)), 5 U.S.C. 552b(c) (commonly known as the Government in the Sunshine Act), and sections 102–3.140 and 102–3.150 of title 41, Code of Federal Regulations (CFR).

Due to circumstances beyond the control of the Designated Federal Officer, the Defense Science Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its February 16, 2023 meeting. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Purpose of the Meeting: The mission of the DSB is to provide independent advice and recommendations on matters relating to the DoD's scientific and technical enterprise. The objective of the meeting is to obtain, review, and evaluate classified information related to the DSB's mission. DSB membership will meet with DoD Leadership to discuss classified current and future national security challenges and priorities within the DoD.

Agenda: The DSB Quarterly Meeting will begin on February 16, 2023 at 8 a.m. with opening remarks from Mr. Kevin Doxey, the DFO, and Dr. Eric Evans, DSB Chair. The first briefing will be from Dr. Dave Honey, Deputy Under Secretary of Defense for Research & Engineering, who will provide classified technical remarks on his view on defense technical challenges and priorities, to include microelectronics. Next, Dr. Eric Evans, DSB Chair, will provide classified updates on ongoing DSB studies to include the DSB Task Force on National Security Innovation Activities, DSB Task Force on Emerging Biotechnologies and National Security, DSB Task Force on Future Cyber Warfighting Capabilities for the DoD. Next, the Director of the Defense Advanced Research Projects Agency (DARPA), Dr. Stephanie Tompkins, will provide classified technical remarks on her view of DARPA's defense challenges and priorities. The next briefing will be from General Mark Milley, Chairman of the Joint Chiefs of Staff, who will provide classified remarks on his view on defense challenges and priorities in regards to current events and modernization efforts. Following the break, the Under Secretary of Defense for Acquisition & Sustainment (USD(A&S)), Dr. Bill LaPlante, will provide classified technical remarks on his view on defense challenges and priorities in his role as USD(A&S). Next, Dr. Eric Evans will provide classified remarks on ongoing DSB studies, to include the DSB Task Force on National Security Innovation Activities, DSB Task Force on Emerging Biotechnologies and National Security, DSB Task Force on Future Cyber Warfighting Capabilities for the DoD. Following the break, Mr. Frank Kendall, Secretary of the Air Force, will provide classified remarks on his view of current defense challenges and priorities for the Air Force related to technology. The meeting will adjourn at 4:15 p.m.

Meeting Accessibility: In accordance with 5 U.S.C. 1009(d) and 41 CFR 102–3.155, the DoD has determined that the DSB meeting will be closed to the

public. Specifically, the Under Secretary of Defense for Research & Engineering, in consultation with the DoD Office of the General Counsel, has determined in writing that the meeting will be closed to the public because it will consider matters covered by 5 U.S.C. 552b(c)(1). The determination is based on the consideration that it is expected that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the DSB's findings and recommendations to the Secretary of Defense and to the Under Secretary of Defense for Research & Engineering.

Written Statements: In accordance with 5 U.S.C. 1009(a)(3) and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the DSB at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the DSB DFO at the email address provided in the **FOR FURTHER INFORMATION CONTACT** section at any point.

Dated: February 14, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–03417 Filed 2–16–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Research and Engineering, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Science Board (DSB) will take place.

DATES: Closed to the public Wednesday, February 15, 2023 from 8:15 a.m. to 5 p.m.

ADDRESSES: The address of the closed meeting is the Executive Conference Center, 4075 Wilson Blvd., Floor 3, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Doxey, Designated Federal Officer (DFO) (703) 571–0081 (Voice), (703) 697–1860 (Facsimile), *kevin.a.doxey.civ@mail.mil* (Email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140. Website: *http://www.acq.osd.mil/dsb/*. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of chapter 10 of title 5 U.S. Code (commonly known as the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix)), 5 U.S.C. 552b(c) (commonly known as the Government in the Sunshine Act), and sections 102–3.140 and 102–3.150 of title 41, Code of Federal Regulations (CFR).

Due to circumstances beyond the control of the Designated Federal Officer, the Defense Science Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its February 15, 2023 meeting. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

Purpose of the Meeting: The mission of the DSB is to provide independent advice and recommendations on matters relating to the DoD's scientific and technical enterprise. The objective of the meeting is to obtain, review, and evaluate classified information related to the DSB's mission. DSB membership will meet to discuss the 2023 DSB Summer Study on Climate Change and Global Security (''the DSB Summer Study'').

Agenda: The meeting will begin on Wednesday, February 15, 2023 at 8:15 a.m. with administrative opening remarks from Mr. Kevin Doxey, DFO, and a classified overview of the objectives of the Summer Study from Dr. Eric Evans, the DSB Chair. Next, the DSB members will meet in a plenary session to discuss classified strategies for anticipating the global stresses and possible conflict due to climate change. Following a break, the DSB members will hear a classified briefing from Dr. Steven Wax, Acting Deputy Chief Technology Officer (Science & Technology), Office of the Under Secretary of Defense for Research & Engineering (OUSD(R&E), regarding OUSD(R&E) environmental research and development oversight. Following a break, Mr. Richard Kidd, Deputy Assistant Secretary of Defense for Environment and Energy Resilience, Office of the Under Secretary of Defense for Acquisition & Sustainment, will provide a classified briefing on the environment and energy resilience portfolio. Next, Ms. Iris Ferguson, Deputy Assistant Secretary of Defense for Arctic and Global Resilience, Office of the Under Secretary of Defense for Policy, will provide a classified briefing on arctic and global resilience. Following a break, members will then meet in a plenary session to discuss classified strategies for anticipating the global stresses and possible conflict due to climate change. The meeting will adjourn at 5:00 p.m.

Meeting Accessibility: In accordance with 5 U.S.C. 1009(d) and 41 CFR 102–3.155, the DoD has determined that the DSB meeting will be closed to the public. Specifically, the Under Secretary of Defense for Research & Engineering, in consultation with the DoD Office of the General Counsel, has determined in writing that the meeting will be closed to the public because it will consider matters covered by 5 U.S.C. 552b(c)(1). The determination is based on the consideration that it is expected that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the DSB's findings and recommendations to the Secretary of Defense and to the Under Secretary of Defense for Research & Engineering.

Written Statements: In accordance with 5 U.S.C. 1009(a)(3) and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the DSB at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the DSB DFO at the email address provided in the **FOR FURTHER INFORMATION CONTACT** section at any point.

Dated: February 14, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–03416 Filed 2–16–23; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2022–SCC–0149]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Targeted Teacher Shortage Areas Data Collection

AGENCY: Office of Postsecondary Education (OPE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before March 20, 2023.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be submitted within 30 days of publication of this notice. Click on this link *www.reginfo.gov/public/do/PRAMain* to access the site. Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check the ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Freddie Cross, (202) 453–7224.

SUPPLEMENTARY INFORMATION: The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Targeted Teacher Shortage Areas Data Collection.

OMB Control Number: 1840–0595.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 57.

Total Estimated Number of Annual Burden Hours: 2,793.

Abstract: This request is for approval of reporting requirements that are contained in the Federal Family Education Loan Program (FFELP) regulations (34 CFR 682.210) which address the targeted teacher deferment provision of the Higher Education Act of 1965 as amended by the Higher Education Amendment of 1986, sections 427(a)(2)(C)(vi), 428 (b)(1)(M)(vi), and 428 (b)(4)(A), which provide for the targeted teacher deferment.

The FFELP (34 CFR 682.210(q)), Paul Douglas Teacher Scholarship Program (34 CFR 653.50(a)), TEACH Grant Program, and Federal Perkins Loan Program (34 CFR 674.53(c)) regulations contain information collection requirements. The Chief State School Officers of each state provide the Secretary annually with a database of proposed teacher shortage areas for each state.

Dated: February 13, 2023.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2023–03345 Filed 2–16–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[GDO Docket No. EA–338–C]

Application for Renewal of Authorization To Export Electric Energy; Shell Energy North America (US), L.P.

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: Shell Energy North America (US), L.P. (the Applicant or Shell Energy) has applied for authorization to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before March 20, 2023.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Steven Blazek, (240) 474–2780, *electricity.exports@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The United States Department of Energy (DOE) regulates electricity exports from the United States to foreign countries in accordance with section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)) and regulations thereunder (10 CFR 205.300 *et seq.*). Sections 301(b) and 402(f) of the DOE Organization Act (42 U.S.C. 7151(b) and 7172(f)) transferred this regulatory authority, previously exercised by the now-defunct Federal Power Commission, to DOE.

Section 202(e) of the FPA provides that an entity which seeks to export electricity must obtain an order from DOE authorizing that export. (16 U.S.C. 824a(e)). On June 13, 2022, the authority to issue such orders was delegated to the DOE's Grid Deployment Office (GDO) under Delegation Order No. S1–DEL–S3–2022–2 and Redelegation Order No. S3–DEL–GD1–2022.

On May 5, 2008, DOE issued Order No. EA–338 authorizing Shell Energy to transmit electric energy from the United States to Mexico as a power marketer. DOE subsequently renewed Shell Energy's authorization to export electric energy from the United States to Mexico as a power marketer in Order No. EA–338–A (May 9, 2013), and again in Order No. EA–338–B (May 30, 2018). On December 2, 2022, Shell Energy filed an application with DOE (Application or App) for renewal of their export authority for an additional five-year term. App at 1.

In its Application, Shell Energy states that it ''does not own any electric generation or transmission facilities and does not hold a franchise or service territory or native load obligation.'' App at 2. Shell Energy seeks to renew its authority to ''export electric energy acquired from U.S. generating sources to Mexico over international electric transmission facilities.'' App at 3. Shell Energy represents that it ''will purchase the power to be exported from electric utilities, qualifying small power production facilities, cogeneration facilities and federal power marketing agencies'' and that ''electric energy exported pursuant to the authorization requested in this Renewal Application, whether on a firm or interruptible basis, will be purchased in bilateral, voluntary transactions from the surplus and available electric energy of the generator/seller.'' App at 4. Therefore,

''Shell Energy's exports to Mexico will not impair the sufficiency of the electric power supply within the U.S.'' *Id.*

The existing international transmission facilities to be utilized by the Applicant have been previously authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties. *See* App at Exhibit C.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of FERC's Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning Shell Energy's Application should be clearly marked with GDO Docket No. EA–338–C. Additional copies are to be provided directly to David L. Smith, Regulatory Advisor DF—Shell Energy, 1000 Main, Suite 1200, Houston, TX 77002–6336, (713) 767–5542, *dave.l.smith@shell.com* and Catherine McCarthy, Partner—Bracewell LLP, 2001 M. Street NW, Suite 900, Washington, DC 20036–3310, (202) 828–5839, *Catherine.mccarthy@bracewell.com.*

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the United States electric power supply system.

Copies of this Application will be made available, upon request, by accessing the program website at *https://www.energy.gov/gdo/pending-applications* or by emailing *Electricity.Exports@hq.doe.gov.*

Signing Authority

This document of the Department of Energy was signed on February 13, 2023, by Maria Robinson, Director, Grid Deployment Office, 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 February 14, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2023–03439 Filed 2–16–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[GDO Docket No. EA–318–D]

Application for Renewal of Authorization To Export Electric Energy; AEP Energy Partners, Inc.

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: AEP Energy Partners, Inc. (the Applicant or AEP–EP) has applied for authorization to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before March 20, 2023.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Steven Blazek, (240) 474–2780, *electricity.exports@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The United States Department of Energy (DOE) regulates electricity exports from the United States to foreign countries in accordance with section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)) and regulations thereunder (10 CFR 205.300 *et seq.*). Sections 301(b) and 402(f) of the DOE Organization Act (42 U.S.C. 7151(b) and 7172(f)) transferred this regulatory authority, previously exercised by the now-defunct Federal Power Commission, to DOE.

Section 202(e) of the FPA provides that an entity which seeks to export electricity must obtain an order from DOE authorizing that export. (16 U.S.C. 824a(e)). On June 13, 2022, the authority to issue such orders was delegated to the DOE's Grid Deployment Office (GDO) under Delegation Order No. S1–DEL–S3–2022–2 and Redelegation Order No. S3–DEL–GD1–2022.

On February 22, 2007, DOE issued Order No. EA–318, which authorized CSW Power Marketing to transmit electric energy from the United States to Mexico for a five-year term using existing international transmission facilities. Shortly thereafter, CSW Power Marketing changed its name to AEP Energy Partners, Inc. (AEP–EP). Consequently, on June 27, 2007, DOE rescinded Order No. EA–318 and issued Order No. EA–318–A to AEP–EP under the same terms and conditions as the original authorization.

On December 19, 2011, AEP–EP filed an application seeking to renew its export authority for a 10-year term. On January 20, 2012, DOE published notice of AEP–EP's renewal application in the **Federal Register** (77 FR 1474, January 20, 2012). Sierra Club filed a timely motion to intervene and protest on February 9, 2012. On February 16, 2012, AEP–EP filed an emergency request for continuance or temporary extension of its existing export authorization, together with a request for expedited consideration. On February 17, 2012, Sierra Club filed an opposition to AEP–EP's emergency request. On February 22, 2012, DOE issued letter order No. EA–318–B to AEP–EP, allowing it to continue exporting electricity from the United States to Mexico for emergency purposes only. On January 28, 2013, DOE issued EA–318–C, granting AEP–EP authorization to export electric energy to Mexico.

On October 19, 2022, AEP–EP filed an application with DOE (Application or App) for renewal of their export authority for an additional five-year term or any longer period allowable. App at 2. Per the Q3 2022 Form EIA–111 filed by AEP–EP at the United States Energy Information Administration, AEP–EP is currently exporting electricity. On January 11, 2023, AEP–EP filed an emergency request for continuance or temporary extension of existing export authorization or for a temporary export authorization and request for expedited consideration. On January 25, 2023, DOE granted a temporary extension of AEP–EP's existing export authorization Order No. EA–318–C until such time as DOE reviews the renewal Application.

In its Application, AEP–EP states that it ''does not own control or operate any electric generation, distribution or transmission assets'' nor does it ''have a franchised electric power service area or service territory for the transmission, distribution or sale of electric power in the United States or Mexico.'' App at 2. AEP–EP seeks to renew its authority to ''export electric energy from the United States of America ('United States') to Mexico over any authorized international electric transmission

facilities that are appropriate for 'open access' transmission by third parties.'' App at 1. AEP–EP represents that it will ''purchase the electric energy to be exported to Mexico in the wholesale energy market pursuant to voluntary agreements with electric utilities and federal power marketing agencies'' and that, by definition, ''such power is surplus to the system of the electric utilities and federal power marketing agencies, and, thus, will not impair or have an adverse effect on the sufficiency or operation of the electric power system'' of the United States. App at 5.

The existing international transmission facilities to be utilized by the Applicant have been previously authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties. *See* App at Exhibit C.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of FERC's Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning AEP–EP's Application should be clearly marked with GDO Docket No. EA–318–D. Additional copies are to be provided directly to Thomas M. Myers, Vice President—AEP Energy Partners, Inc., 1 Riverside Plaza, 31st Floor, Columbus, OH 43215, (614) 716–3170, *tmyers@aep.com* and Carol Gosain, Steptoe & Johnson LLP, 1330 Connecticut Avenue NW, Washington, DC 20036, (202) 429–6461, *cgosain@steptoe.com.*

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the United States electric power supply system.

Copies of this Application will be made available, upon request, by accessing the program website at *https://www.energy.gov/gdo/pending-applications* or by emailing *Electricity.Exports@hq.doe.gov.*

Signing Authority

This document of the Department of Energy was signed on February 13, 2023, by Maria Robinson, Director, Grid Deployment Office, 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 February 14, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2023–03432 Filed 2–16–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[GDO Docket No. EA–501]

Application To Export Electric Energy, EDC Power, LLC

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: EDC Power, LLC (the Applicant or EDC POWER) has applied for authorization to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before March 20, 2023.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Steven Blazek, (240) 474–2780, *electricity.exports@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The United States Department of Energy (DOE) regulates electricity exports from the United States to foreign countries in accordance with section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)) and regulations thereunder (10 CFR 205.300 *et seq.*). Sections 301(b) and 402(f) of the DOE Organization Act (42 U.S.C. 7151(b) and 7172(f)) transferred this regulatory authority, previously exercised by the now-defunct Federal Power Commission, to DOE.

Section 202(e) of the FPA provides that an entity which seeks to export electricity must obtain an order from DOE authorizing that export. (16 U.S.C. 824a(e)). On June 13, 2022, the authority to issue such orders was delegated to the DOE's Grid Deployment Office (GDO) under Delegation Order No. S1–DEL–S3–2022–2 and Redelegation Order No. S3–DEL–GD1–2022.

On July 12, 2022, EDC POWER filed an application with DOE (Application or App) for authority ''to transmit electric energy across international transmission facilities into Mexico as a power-marketer for a term of five years.'' App at 1. EDC POWER states that it is ''incorporated under the laws of Texas with its principal place of business in Houston, Texas'' and adds that it ''is the wholly owned subsidiary of EDECSAMEX, S.A. de C.V. (''EDECSAMEX''), a company incorporated in Mexico.'' EDC POWER represents that energy it ''proposes to export to Mexico will be purchased as excess energy from third parties, such as electric utilities and federal power marketing agencies, pursuant to voluntary agreements, and wheeled over existing transmission facilities owned by third parties.'' Id. Additionally, ''neither EDC Power, nor any of its owners, own or control (nor hold an interest in other entities that own or control) any electric power generation or transmission facilities within the United States. Additionally, neither EDC POWER nor any of its owners hold a franchised electric power service area nor have a native load obligation.'' Id at 2.

EDC POWER represents that ''[a]s the electric power that EDC POWER plans to export to Mexico will be excess supply, its commercial plan does not impact native load requirements. Moreover, as the electric power it plans to export will be wheeled over transmission facilities owned and operated by third parties, it will not affect reliability of the ERCOT [Electric Reliability Council of Texas] transmission network, or other networks if and when it expands its commercial plan into other markets. Therefore, the export of electric energy to Mexico by EDC POWER will not impact the sufficiency of electric supply nor the reliability of the transmission grid.'' Id at 2–3.

The existing international transmission facilities to be utilized by EDC Power are set forth in Exhibit C to its Application and have been previously authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

PROCEDURAL MATTERS: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commissions' (FERC) Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning EDC POWER's Application should be clearly marked with GDO Docket No. EA–501. Additional copies are to be provided directly to Vahid Sadeghpour, Manager—EDC Power, LLC, 2615 Centenary Street, Houston, Texas 77005, (713) 851–0473, *vsadeghpour@edecsa.net,* and Gregory Arroyo, Jr., Counsel—EDC Power, LLC, 124 Palm Blvd., Missouri City, TX 77459, (713) 907–5505, *garroyo@edecsa.net.*

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the United States electric power supply system.

Copies of this Application will be made available, upon request, by accessing the program website at *https://www.energy.gov/gdo/pending-applications* or by emailing *electricity.exports@hq.doe.gov.*

Signing Authority: This document of the Department of Energy was signed on February 13, 2023, by Maria Robinson, Director, Grid Deployment Office, 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 February 14, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2023–03374 Filed 2–16–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[GDO Docket No. EA–296–D]

Application for Renewal of Authorization To Export Electric Energy; Rainbow Energy Marketing Corporation

AGENCY: Grid Deployment Office, Department of Energy.

ACTION: Notice of application.

SUMMARY: Rainbow Energy Marketing Corporation (the Applicant or Rainbow) has applied for authorization to transmit electric energy from the United States to Canada pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before March 20, 2023.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed by electronic mail to *Electricity.Exports@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Steven Blazek, (240) 474–2780, *electricity.exports@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) regulates exports of electricity from the United States to a foreign country pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b) and 42 U.S.C. 7172(f)). Such exports require authorization under section 202(e) of the Federal Power Act (16 U.S.C. 824a(e)).

On November 9, 2004, DOE issued Order No. EA–296, which authorized Rainbow to transmit electric energy from the United States to Canada as a power marketer for a two-year term. That authorization expired on November 9, 2006. Subsequent authorization renewals were issued by DOE on September 18, 2007 (Order No. EA–296–A), September 20, 2012 (Order No. EA–296–B), and September 17, 2017 (Order No. EA–296–C). On September 16, 2022, Rainbow filed an application with DOE (Application or App) for renewal of their export authority for an additional five-year term.

In its application, Rainbow states that it ''does not own or control any physical electric generation or transmission facilities in the U.S. and does not have any franchised service territory in the U.S.'' App at Paragraph (d). Rainbow seeks to renew its authority to ''engage in open-ended transactions to export electricity to Canada under terms and conditions to be negotiated in the future.'' App at Paragraph (g). Because Rainbow has neither any franchised service territory nor any generation facilities, it represents that the proposed electric power exports under its application are ''surplus to the needs of those entities selling electric power to Rainbow.'' *Id.* In other words, the energy will be purchased as excess from third parties such as electric utilities and federal power marketing agencies, pursuant to voluntary agreements, and wheeled over existing transmission facilities owned by third parties. The Applicant further states that all electricity exported by Rainbow will be ''transmitted pursuant to arrangements with utilities that own and operate existing transmission facilities and will be consistent with all applicable export limits on transmitting facilities, including those of the border facilities used, and with other terms and conditions contained in existing Presidential Permits and electricity export authorizations associated with these transmission facilities.'' *Id.* Therefore, Rainbow represents that ''the proposed export of electricity will not impair the sufficiency of electric supply within the U.S. or impede regional coordination of electric utility planning or operation.'' *Id.*

The existing international transmission facilities to be utilized by the Applicant have been previously authorized by Presidential permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties. App at Exhibit C.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the Application at the address provided above. Protests should be filed in accordance with Rule 211 of FERC's Rules of Practice and Procedure (18 CFR 385.211). Any person desiring to become a party to this proceeding should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214).

Comments and other filings concerning Rainbow's Application should be clearly marked with GDO Docket No. EA–296–D. Additional copies are to be provided directly to Joseph A. Wolfe, Executive Vice President—Rainbow Energy Marketing Corporation, 919 South 7th Street Suite

405, Bismarck, ND 58504, (701) 222–2290, *j.wolfe@rainbowenergy.com.*

A final decision will be made on the requested authorization after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after DOE evaluates whether the proposed action will have an adverse impact on the sufficiency of supply or reliability of the United States electric power supply system.

Copies of this Application will be made available, upon request, by accessing the program website at *https://www.energy.gov/gdo/pending-applications* or by emailing *Electricity.Exports@hq.doe.gov.*

Signing Authority

This document of the Department of Energy was signed on February 13, 2023, by Maria Robinson, Director, Grid Deployment Office, 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 February 13, 2023.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2023–03435 Filed 2–16–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Northern New Mexico

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces an in-person/virtual hybrid meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Northern New Mexico. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, March 15, 2023; 1 p.m. to 5 p.m. MDT.

ADDRESSES: This hybrid meeting will be open to the public virtually via WebEx only. To attend virtually, please contact the Northern New Mexico Citizens Advisory Board (NNMCAB) Executive Director (below) no later than 5:00 p.m. MDT on Friday, March 10, 2023.

Board members, Department of Energy (DOE) representatives, agency liaisons, and Board support staff will participate in-person, following COVID–19 and influenza precautionary measures, at: Hilton of Santa Fe Historic Plaza, 100 Sandoval Street, Santa Fe, NM 87501.

Attendees should check with the NNMCAB Executive Director (below) for any meeting format changes due to COVID–19 protocols.

FOR FURTHER INFORMATION CONTACT: Menice B. Santistevan, NNMCAB Executive Director, by Phone: (505) 699–0631 or Email: *menice.santistevan@em.doe.gov*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Overview of Environmental Risk Assessment
- Agency Updates

Public Participation: The in-person/online virtual hybrid meeting is open to the public virtually via WebEx only. Written statements may be filed with the Board no later than 5 p.m. MDT on Friday, March 10, 2023, or within seven days after the meeting by sending them to the NNMCAB Executive Director at the aforementioned email address. Written public comments received prior to the meeting will be read into the record. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to submit public comments should follow as directed above.

Minutes: Minutes will be available by emailing or calling Menice B. Santistevan, NNMCAB Executive Director, at *menice.santistevan@em.doe.gov* or at (505) 699–0631.

Signed in Washington, DC, on February 14, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023–03440 Filed 2–16–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES:

Monday, March 13, 2023; 1 p.m.–4:15 p.m. ET

Tuesday, March 14, 2023; 9 a.m.–3:30 p.m. ET

ADDRESSES: HUB for Community Innovation, 631 Chafee Avenue, Augusta, GA 30904.

The meeting will also be streamed on YouTube, no registration is necessary; links for the livestream can be found on the following website: *https://cab.srs.gov/srs-cab.html.*

Attendees should check the website listed above for any meeting format changes due to COVID–19 protocols.

FOR FURTHER INFORMATION CONTACT: Amy Boyette, Office of External Affairs, U.S. Department of Energy (DOE), Savannah River Operations Office, P.O. Box A, Aiken, SC, 29802; Phone: (803) 952–6120; or Email: *amy.boyette@srs.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

Monday, March 13, 2023:
Chair Update
Agency Updates
Subcommittee Updates
Board Business
Public Comments

Tuesday, March 14, 2023:
Program Presentations
Public Comments
Board Business, Voting

Public Participation: The meeting is open to the public. It will be held strictly following COVID–19 precautionary measures. To provide a safe meeting environment, seating may be limited; attendees should register for in-person attendance by sending an email to *srscitizensadvisoryboard@srs.gov* no later than 4 p.m. ET on

Friday, March 10, 2023. The EM SSAB, Savannah River Site, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Amy Boyette at least seven days in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board via email either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should submit their request to *srscitizensadvisoryboard@srs.gov*. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. Comments will be accepted after the meeting, by no later than 4 p.m. ET on Monday, March 27, 2023. Please submit comments to *srscitizensadvisoryboard@srs.gov*. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make oral public comments will be provided a maximum of five minutes to present their comments. Individuals wishing to submit written public comments should email them as directed above.

Minutes: Minutes will be available by emailing or calling Amy Boyette at the email address or telephone number listed above. Minutes will also be available at the following website: *https://cab.srs.gov/srs-cab.html*.

Signed in Washington, DC, on February 14, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023–03442 Filed 2–16–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Thursday, March 16, 2023; 5:30 p.m.–7 p.m. CT.

ADDRESSES: West Kentucky Community and Technical College, Emerging Technology Center, Room 109, 5100 Alben Barkley Drive, Paducah, Kentucky 42001.

Attendees should check with the Board Support Manager (below) for any meeting format changes due to COVID–19 protocols.

FOR FURTHER INFORMATION CONTACT: Eric Roberts, Board Support Manager, by Phone: (270) 554–3004 or Email: *eric@pgdpcab.org*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Review of Agenda
- Administrative Issues
- Public Comment Period

Public Participation: Public Participation: The meeting is open to the public. The EM SSAB, Paducah, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Eric Roberts as soon as possible in advance of the meeting at the telephone number listed above. Written statements may be filed with the Board either before or after the meeting. Comments received by no later than 5 p.m. CT on Monday, March 13, 2023, will be read aloud during the meeting. Comments will also be accepted after the meeting, by no later than 5:00 p.m. CT on Friday, March 24, 2023. Please submit comments to Eric Roberts at the aforementioned email address. Please put ''Public Comment'' in the subject line. Individuals who wish to make oral statements pertaining to agenda items should contact Eric Roberts at the telephone number listed above. Requests must be received as soon as possible prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments. The EM SSAB, Paducah, will hear public comments pertaining to its scope (clean-up standards and environmental restoration; waste management and disposition; stabilization and disposition of non-stockpile nuclear materials; excess facilities; future land use and long-term stewardship; risk assessment and management; and clean-up science and technology activities). Comments outside of the scope may be submitted via written statement as directed above.

Minutes: Minutes will be available by writing or calling Eric Roberts, Board Support Manager, Emerging Technology Center, Room 221, 4810 Alben Barkley Drive, Paducah, KY 42001; Phone: (270) 554–3004. Minutes will also be available at the following website: *https://www.energy.gov/pppo/pgdp-cab/listings/meeting-materials*.

Signed in Washington, DC, on February 14, 2023.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2023–03441 Filed 2–16–23; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP23–430–000.

Applicants: Columbia Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Non-Conforming—Columbia Gas Virginia—50473–12 to be effective 2/1/2023.

Filed Date: 2/6/23.

Accession Number: 20230206–5119.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: RP23–437–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Amendment to Neg Rate Agmt (Chevron 41610) to be effective 2/13/2023.

Filed Date: 2/13/23.

Accession Number: 20230213–5046.

Comment Date: 5 p.m. ET 2/27/23.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at:*http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 13, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–03424 Filed 2–16–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TX23–3–000]

CMD Carson, LLC; Notice of Filing

Take notice that on February 10, 2023, pursuant to sections 210 and 211 of the Federal Power Act,[1] CMD Carson, LLC (Carson) filed an application requesting that the Federal Energy Regulatory Commission (Commission) issue an order requiring Turlock Irrigation District to provide interconnection and transmission services for Carson's Soderquist Road Project, a battery storage project under development in Turlock, California.[2]

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Comment Date: 5:00 p.m. Eastern Time on March 13, 2023.

Dated: February 13, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–03427 Filed 2–16–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL23–40–000.

Applicants: American Electric Power Service Corp., et al. v. *Southwest Power Pool, Inc.*

Description: Complaint of *American Electric Power Service Corp., et al* v. *Southwest Power Pool, Inc.*

Filed Date: 2/10/23.

Accession Number: 20230210–5219.

Comment Date: 5 p.m. ET 3/2/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER21–2871–001.

Applicants: Midcontinent Independent System Operator, Inc., Pioneer Transmission LLC.

Description: Compliance filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35: 2023–02–13_Pioneer Supplemental Order 864 Compliance to be effective 1/27/2020.

Filed Date: 2/13/23.

Accession Number: 20230213–5103.

Comment Date: 5 p.m. ET 3/6/23.

Docket Numbers: ER22–93–003.

Applicants: Tatanka Ridge Wind, LLC.

Description: Compliance filing: Settlement Compliance Filing to be effective 1/1/2022.

Filed Date: 2/13/23.

Accession Number: 20230213–5112.

Comment Date: 5 p.m. ET 3/6/23.

Docket Numbers: ER23–423–001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Response to Deficiency Notice RE Hill Energy Resources Termination Filing to be effective 1/17/2023.

Filed Date: 2/13/23.

Accession Number: 20230213–5102.

Comment Date: 5 p.m. ET 3/6/23.

Docket Numbers: ER23–718–001.

Applicants: Public Service Company of Colorado.

Description: Tariff Amendment: 2022 Production Ministerial Filing—Amendment to be effective 1/1/2023.

Filed Date: 2/13/23.

Accession Number: 20230213–5000.

Comment Date: 5 p.m. ET 3/6/23.

Docket Numbers: ER23–1103–000.

Applicants: Cleco Cajun LLC.

Description: Request for Limited Waiver, et al. of Cleco Cajun LLC.

Filed Date: 2/10/23.

Accession Number: 20230210–5183.

Comment Date: 5 p.m. ET 2/21/23.

Docket Numbers: ER23–1104–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX–BCEC–GSEC Sisseton Facility Development Agreement to be effective 1/25/2023.

Filed Date: 2/13/23.

Accession Number: 20230213–5085.

Comment Date: 5 p.m. ET 3/6/23.

Docket Numbers: ER23–1105–000.

Applicants: Mitsui & Co. Energy Marketing and Services (USA), Inc.

Description: § 205(d) Rate Filing: Category status update normal filing to be effective 2/14/2023.

Filed Date: 2/13/23.

Accession Number: 20230213–5092.

Comment Date: 5 p.m. ET 3/6/23.

Docket Numbers: ER23–1106–000.

Applicants: Basin Electric Power Cooperative.

Description: § 205(d) Rate Filing: Basin Electric Member Interconnection and Misc Service Agreements to be effective 7/16/2020.

Filed Date: 2/13/23.

Accession Number: 20230213–5111.

[1] 16 U.S.C. 824i and 824j.

[2] Carson is affiliated with Carson Hybrid Energy Storage, LLC, which on behalf of Carson has often acted as the primary contact with Turlock.

Comment Date: 5 p.m. ET 3/6/23.

Docket Numbers: ER23–1107–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original NSA, SA No. 6783; Queue Nos. AC1–222 and AD1–055 to be effective 1/13/2023.

Filed Date: 2/13/23.

Accession Number: 20230213–5125.

Comment Date: 5 p.m. ET 3/6/23.

Docket Numbers: ER23–1108–000.

Applicants: Front Range-Midway Solar Project, LLC.

Description: Petition for Limited Waiver of Front Range-Midway Solar Project, LLC.

Filed Date: 2/9/23.

Accession Number: 20230209–5158.

Comment Date: 5 p.m. ET 2/23/23.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES23–36–000.

Applicants: Horizon West Transmission, LLC.

Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of Horizon West Transmission, LLC.

Filed Date: 2/9/23.

Accession Number: 20230209–5156.

Comment Date: 5 p.m. ET 3/2/23.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH23–5–000.

Applicants: Citizens Energy Corporation.

Description: Citizens Energy Corporation submits FERC 65–B Notice of Change in Fact to Waiver Notification.

Filed Date: 2/8/23.

Accession Number: 20230208–5134.

Comment Date: 5 p.m. ET 3/1/23.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: February 13, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–03428 Filed 2–16–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2002–0091; FRL 10639–01–OAR]

Proposed Information Collection Request; Comment Request; Ambient Air Quality Surveillance 40 CFR 58 (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR), ''Ambient Air Quality Surveillance (Renewal)'' (EPA ICR No. 0940.30, OMB Control No. 2060–0084) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through July 31, 2023. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before April 18, 2023.

ADDRESSES: Submit your comments to the EPA, referencing Docket ID No. EPA–HQ–OAR–2002–0091, online using *https://www.regulations.gov* (our preferred method), by email to *a-and-r-docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

The EPA's policy is that all comments received will be included in the public docket without change including any personal information provided unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Nealson Watkins, Air Quality Assessment Division, Office of Air Quality Planning and Standards, C304–06, Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: 919–541–5522; fax number: 919–541–1903: email address: *watkins.nealson@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 the EPA's public docket, visit *https://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, the EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, the EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: This ICR includes ambient air monitoring data and other supporting measurements reporting and recordkeeping activities associated with the 40 CFR 58, Ambient Air Quality Surveillance rule. These data and information are collected by various state and local air quality management agencies and reported to the EPA's Office of Air Quality Planning and Standards within the Office of Air and Radiation.

The data collected through this information collection consist of ambient air concentration measurements for the seven air

pollutants with national ambient air quality standards (*i.e.,* ozone, sulfur dioxide, nitrogen dioxide, lead, carbon monoxide, $PM_{2.5}$ and PM_{10}), ozone precursors, meteorological variables at a select number of sites and other supporting measurements. Accompanying the pollutant concentration data are quality assurance/quality control data and air monitoring network design information.

The EPA and others (*e.g.,* state and local air quality management agencies, tribal entities, environmental groups, academic institutions, industrial groups) use the ambient air quality data for many purposes. Some of the more prominent uses include informing the public and other interested parties of an area's (*e.g.,* county, city, neighborhood) air quality, judging an area's air quality in comparison with the established health or welfare standards (including both national and local standards), evaluating an air quality management agency's progress in achieving or maintaining air pollutant levels below the national and local standards, developing and revising State Implementation Plans (SIPs) in accordance with 40 CFR 51, evaluating air pollutant control strategies, developing or revising national control policies, providing data for air quality model development and validation, supporting enforcement actions, documenting episodes and initiating episode controls, air quality trends assessment, and air pollution research.

The state and local agencies and tribal entities with responsibility for reporting ambient air quality data and information as requested in this ICR submit these data electronically to the EPA's Air Quality System (AQS) database. Quality assurance/quality control records and monitoring network documentation are also maintained by each state and local agency, in AQS electronic format where possible.

Although the state and local air pollution control agencies and tribal entities are responsible for the operation of the air monitoring networks, the EPA funds a portion of the total costs through federal grants. These grants generally require an appropriate level of contribution, or ''match,'' from the state/local agencies or tribal entities. The costs shown in this renewal are the total costs incurred for the monitoring program regardless of the source of the funding. This practice of using the total cost is consistent with prior ICR submittals and renewals.

This ICR reflects revisions of the previous ICR update of 2019, and covers the period of 2023–2025. The number of monitoring stations, sampling parameters, and frequency of data collection and submittal is expected to remain relatively stable for 2023–2025, with minor increases and decreases expected for several ambient air monitoring networks as air monitoring agencies review and adjust their monitoring networks. However, the EPA is reviewing the burden estimates in this ICR renewal for potential updates and seeks comments on the burden associated with asset management recordkeeping and reporting, burden associated with Chemical Speciation Network (CSN) reporting, and whether there are other suggested updates to the burden estimates for this ICR renewal.

As noted above, the EPA is considering the burden associated with implementing a reporting system and reporting requirements for asset management in this ICR renewal and has solicited feedback from reporting agencies on asset management reporting. Additionally, the EPA is considering the burden associated with Chemical Speciation Network (CSN) reporting, which is not a new requirement but was omitted from previous ICR renewals. As such, the EPA seeks comments, on a voluntary basis, regarding the following topics:

- The EPA seeks comments on whether reporting agencies are currently using an asset management system and would use electronic data transfer for asset management reporting or whether agencies would likely use direct data entry in an online reporting system.
- The EPA seeks comments on the burden currently incurred by reporting agencies associated with CSN recordkeeping and reporting.
- The EPA seeks comments on whether additional updates or edits are needed to improve the accuracy of the burden estimates in the current ICR (EPA ICR No. 0940.29, OMB Control No. 2060–0084).

Form Numbers: None.

Respondents/affected entities: State, Local, and Tribal Air Pollution Control Agencies.

Respondent's obligation to respond: Mandatory (40 CFR part 58).

Estimated number of respondents: 168 (total).

Frequency of response: Quarterly.

Total estimated burden: 1,771,662 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $215,352,864 (per year), includes $81,263,356 annualized capital or operation & maintenance costs.

Changes in Estimates: There is an anticipated increase in burden from the most recently approved ICR as currently identified in the OMB Inventory of Approved Burdens. This is due to several considerations. First, the EPA expects to make a correction to include burden for CSN reporting. Additionally, the EPA plans to incorporate burden estimates for new asset management recordkeeping and reporting. The number of respondents is not expected to change significantly over the three-year period of this ICR. Finally, the EPA plans to update the burden estimates for the Photochemical Assessment Monitoring Stations (PAMS). For this ICR renewal, the EPA will use experience from the last three years to provide burden estimates that adequately reflect the actual burden. The EPA will consider any comments received and will conduct consultation with reporting agencies. There is an anticipated increase in costs due to the correction to include CSN reporting, the additional asset management recordkeeping and reporting, and the use of updated labor rates.

Richard A. Wayland,

Director, Air Quality Assessment Division.

[FR Doc. 2023–03351 Filed 2–16–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2022–0946; FRL–10625–01–OW]

Drinking Water Contaminant Candidate List 6—Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is requesting nominations of chemicals, microbes, or other substances that are not currently regulated in drinking water for possible inclusion on the Sixth Contaminant Candidate List (CCL 6). EPA requests that nominations include information showing the nominated contaminant is known or anticipated to occur in public water systems and indicating the nominated contaminant may have an adverse health effect on humans.

DATES: Nominations must be received on or before April 18, 2023.

ADDRESSES: You may send nomination comments, identified by Docket ID No. EPA–HQ–OW–2022–0946, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center,

Water Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.

- *Hand Delivery or Courier:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operations are 8:30 a.m. to 4:30 p.m., Monday through Friday (except Federal Holidays).

Instructions: All submissions received must include the Docket ID No. for this notice. Nominations received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending nominations and additional information on the process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Thomas Lombardi, Office of Ground Water and Drinking Water, Standards and Risk Management Division, Environmental Protection Agency; (202) 564–7653; *lombardi.thomas@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation

A. Written Comments

Submit your nomination comments, identified by Docket ID No. EPA–HQ–OW–2022–0946, at *https://www.regulations.gov* (our preferred method), or the other methods identified in the **ADDRESSES** section. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

II. General Information

A. Does this action impose any requirements on public water systems?

This notice does not impose any requirements on anyone; it only requests nominations for the drinking water Contaminant Candidate List (CCL) and provides information on how the public can submit nominations to the EPA.

B. What is the Contaminant Candidate List?

The CCL is a list of contaminants that are currently not subject to any proposed or promulgated national primary drinking water regulations, that are known or anticipated to occur in public water systems, and which may require regulation under the Safe Drinking Water Act (SDWA). EPA uses this list of unregulated contaminants to prioritize research and data collection efforts to help the agency determine whether to regulate a specific contaminant. The SDWA requires that EPA publish the CCL every five years (SWDA section 1412(b)(1)). EPA is also required to consult with the scientific community, including the Science Advisory Board, and provide notice and opportunity for public comment prior to publication of the final CCL.

The SDWA also requires EPA to make regulatory determinations of whether or not to regulate no fewer than five contaminants from the CCL every five years. Section 1412(b)(1)(A) of the SDWA specifies that in making a determination to regulate a contaminant, it must be determined that:

1. The contaminant may have an adverse effect on human health;
2. The contaminant is known to occur, or there is a substantial likelihood that the contaminant will occur, in public water systems with a frequency and at levels of public health concern; and
3. In the sole judgement of the EPA Administrator, regulation of the contaminant presents a meaningful opportunity for health risk reduction for persons served by public water systems.

For additional information on the CCL and Regulatory Determination, visit *https://www.epa.gov/ccl.*

C. What contaminants were listed on the previous Contaminant Candidate List?

The Fifth Contaminant Candidate List (CCL 5) was published on November 14, 2022 (87 FR 68060), and includes 66 chemicals, 3 chemical groups (per- and polyfluoroalkyl substances (PFAS), cyanotoxins, and disinfection byproducts (DBPs)), and 12 microbes, which were selected from a universe of chemicals used in commerce, pesticides, biological toxins, disinfection byproducts, and waterborne pathogens. The list of contaminants included on the CCL 5, can be found at *https://www.epa.gov/ccl/contaminant-candidate-list-5-ccl-5* and in the **Federal Register** publication for the CCL 5 (November 14, 2022, 87 FR 68060, USEPA, 2022).

D. Why is EPA soliciting drinking water contaminant nominations?

EPA is conducting an evaluation of potential contaminants for inclusion on the CCL 6. EPA requests public nominations for contaminants that are not currently regulated in drinking water to ensure a broad consideration of potential contaminants. Both the National Academy of Sciences (NAS, 2001) and National Drinking Water Advisory Council (NDWAC, 2004) recommended that CCL be a data-driven, step wise approach to classifying drinking water contaminants. These advisors also recognized the importance of providing a pathway for public participation in the CCL process. The public nomination process allows EPA to consider new and emerging contaminants that might not otherwise be considered because new information may exist that EPA is unaware of and/or the information may not have been widely reported or recorded.

III. The CCL Nominations Process

The contaminant nominations process provides the public with the opportunity to identify potential drinking water contaminants and provide relevant data for EPA to consider for developing the CCL 6. In the future, EPA will also accept information following publication of the Draft CCL 6 for public comment.

A. How can stakeholders, agencies, organizations, and the public nominate drinking water contaminants for the CCL 6?

Interested parties can nominate chemicals, microbes, or other substances for consideration on the CCL 6 by sending information electronically through *http://www.regulations.gov,* by mail, or by hand delivery (see the **ADDRESSES** section of this notice). Do not submit confidential business information (CBI) to EPA through *http://www.regulations.gov* or by email. Submit nomination comments that contain CBI only by mail or hand delivery, and clearly mark the part of or all the information that you claim to be CBI. In addition to one complete version

of the comment that includes information claimed as CBI, a non-CBI copy of the comment that *does not* contain the information claimed as CBI must be submitted for inclusion in the public docket. Information marked accordingly will not be disclosed except in accordance with procedures shown in 40 CFR part 2 of the Code of Federal Regulations.

When submitting a nomination, EPA prefers the nominator include a name, affiliation, phone number, mailing address, and email address; however, this information is not required, and nominations can be submitted anonymously. The nominator should also address the following questions for each nominated contaminant:

1. What is the nominated contaminant's name, CAS Registry Number (CAS RN) or DSSTox substance identifier (DTXSID), and/or common synonym (if applicable)? Note—please do not nominate a contaminant already subject to the National Primary Drinking Water Regulations (NPDWRs) (see the current list at *https://www.epa.gov/ground-water-and-drinking-water/national-primary-drinking-water-regulations*).

2. What are the data you believe support the conclusion that the nominated contaminant is known or anticipated to occur in public water systems? For example, provide information that shows measured occurrence of the contaminant in drinking water, measured occurrence in sources of drinking water that provide water to public drinking water systems, measured occurrence in other water types (*i.e.,* ambient water (rivers, lakes, or streams) groundwater, wastewater, stormwater, or urban runoff) or provide information that shows the contaminant is released in the environment or is manufactured in large quantities and has the potential for contaminating sources of public drinking water. Please provide the source of the information with complete citations for published information (*i.e.,* author(s), title, journal, and date) and/or contact information for the primary investigator. Additionally, please provide original supporting or supplemental information files relevant to the published information (*i.e.,* data tables, data sets, or data files, etc).

3. What new health effects data are available which you believe supports the conclusion that a contaminant may have an adverse effect on the health of humans? For example, provide information that shows the contaminant may have an adverse health effect on the general population or that the contaminant is potentially harmful to subgroups that comprise a meaningful portion of the population (such as children, pregnant women, the elderly, individuals with a history of serious illness, individuals living in disadvantaged communities with known occurrence of emerging contaminants in their public water systems, or others). Please provide the source of this information with complete citations for published information (*i.e.,* author(s), title, journal, and date) and/or contact information for the primary investigator. Additionally, please provide original supporting or supplemental information files relevant to the published information (*i.e.,* data tables, data sets, or data files, etc).

B. How do I submit nominations in hard copy?

You may submit contaminant nominations by mail or hand delivery. To allow full consideration, please ensure that your nominations are received or postmarked by midnight on April 18, 2023. The address for submittal of nominations by mail or hand delivery is listed in the **ADDRESSES** section of this notice.

C. What will happen to my nominations after I submit them?

EPA will evaluate the information available for all publicly nominated drinking water contaminants to determine the appropriateness of their inclusion on the CCL 6. EPA does not intend to respond to the nomination comments directly or individually. EPA will summarize the nominations received when the Draft CCL 6 document is published in the **Federal Register**.

IV. References

National Drinking Water Advisory Council (NDWAC). 2004. National Drinking Water Advisory Council Report on the CCL Classification Process to the U.S. Environmental Protection Agency. Available on the internet at: *https://www.epa.gov/sites/production/files/2015-11/documents/report_ccl_ndwac_07-06-04.pdf.*

National Research Council (NRC). 2001. Classifying Drinking Water Contaminants for Regulatory Consideration. National Academy Press. Washington, DC. Available on the internet at *https://nap.nationalacademies.org/read/10080/chapter/1.*

USEPA. 2022. Drinking Water Contaminant Candidate List 5-Final. **Federal Register**. Vol. 87, No. 318, pp. 68060—68085. November 14, 2022. EPA Docket No. EPA–HQ–OW–2018–0594.

Radhika Fox,

Assistant Administrator.

[FR Doc. 2023–03426 Filed 2–16–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–057]

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 February 6, 2023 10 a.m. EST Through February 13, 2023 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://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/search*.

EIS No. 20230027, Final, FRA, NY, High Speed Rail Empire Corridor Tier 1, *Review Period Ends:* 03/20/2023, *Contact:* Brandon Bratcher 202–868–2626.

EIS No. 20230028, Draft, USFWS, CO, Colorado Gray Wolf 10(j) Rulemaking, *Comment Period Ends:* 04/03/2023, *Contact:* Nicole Alt 303–236–4213.

EIS No. 20230029, Final, USFS, NC, Nantahala and Pisgah National Forests Final Environmental Impact Statement for the Land Management Plan, *Review Period Ends:* 03/20/2023, *Contact:* Michelle Aldridge 828–257–4200.

EIS No. 20230030, Final, BLM, NM, SunZia Southwest Transmission Project Right-of-Way Amendment, *Review Period Ends:* 03/20/2023, *Contact:* Adrian Garcia 505–954–2199.

EIS No. 20230031, Draft, BOEM, MA, Mayflower Wind Project, *Comment Period Ends:* 04/03/2023, *Contact:* Jessica Stromberg 703–787–1722.

Dated: February 13, 2023.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2023–03397 Filed 2–16–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2023–0084; FRL–10668–01–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree in *Environmental Integrity Project and Sierra Club* v. *Regan,* No. 1:22–cv–3063 (D.D.C.). On October 10, 2022, Plaintiffs Environmental Integrity Project and Sierra Club filed a complaint in the United States District Court for the District of Columbia. Plaintiffs alleged that the Environmental Protection Agency (EPA or the Agency) failed to perform certain non-discretionary duties in accordance with the Act to take final action with respect to a state implementation plan (SIP) revision submitted by the Texas Commission on Environmental Quality (TCEQ). The proposed consent decree would establish a deadline for EPA to sign a notice of final rulemaking.

DATES: Written comments on the proposed consent decree must be received by March 20, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2023–0084, online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the ''Additional Information about Commenting on the Proposed Consent Decree'' heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Pettit, Air and Radiation Law Office, Office of General Counsel, U.S. Environmental Protection Agency; telephone (202) 566–2879; email address *pettit.elizabetha@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2023–0084) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center 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 OEI Docket is (202) 566–1752.

The electronic version of the public docket for this action contains a copy of the proposed consent decree, and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

II. Additional Information About the Proposed Consent Decree

The proposed consent decree would establish a deadline for EPA to take action pursuant to CAA section 110(k) on a SIP revision submitted by TECQ on August 20, 2020. To address EPA's 2015 startup, shutdown, and malfunction policy, the SIP revision purports to establish federally enforceable SIP requirements for the control of particulate matter emissions from eight coal-fired power plants located in Texas during periods of planned maintenance, startup, and shutdown.[1] The proposed consent decree would require EPA to sign a notice of final rulemaking by October 1, 2024.

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information About Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2023–0084, via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document. Note that written comments containing CBI and submitted by mail may be delayed and deliveries or couriers will be received by scheduled appointment only.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *https://www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be

[1] On June 12, 2015, the EPA finalized ''State Implementation Plans: Response to Petition for Rulemaking; Restatement and Update of EPA's SSM Policy Applicable to SIPs; Findings of Substantial Inadequacy; and SIP Calls to Amend Provisions Applying to Excess Emissions During Periods of Startup, Shutdown and Malfunction'' (80 FR 33839, June 12, 2015).

marked ''late.'' EPA is not required to consider these late comments.

Gautam Srinivasan,

Associate General Counsel.

[FR Doc. 2023–03425 Filed 2–16–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2014–0526; FRL–10666–01–ORD]

Availability of the Protocol for the Ethylbenzene IRIS Assessment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: The Environmental Protection Agency (EPA) is announcing a 30-day public comment period associated with release of the document, *Protocol for the Ethylbenzene IRIS Assessment.* This document communicates the rationale for conducting the Integrated Risk Information System (IRIS) assessment of ethylbenzene, describes screening criteria to identify relevant literature, outlines the approach for evaluating study quality, and describes the methods for dose-response analysis.

DATES: The 30-day public comment period begins February 17, 2023 and ends March 20, 2023. Comments must be received on or before March 20, 2023.

ADDRESSES: The Protocol for the Ethylbenzene IRIS Assessment will be available via the internet on the IRIS website at *https://www.epa.gov/iris* and in the public docket at *http://www.regulations.gov,* Docket ID: EPA–HQ–ORD–2014–0526.

FOR FURTHER INFORMATION CONTACT: For information on the docket, contact the ORD Docket at the EPA Headquarters Docket Center; email: *Docket_ORD@epa.gov.*

For technical information on the protocol, contact Mr. Dahnish Shams, Center for Public Health & Environmental Assessment; 202–564–2758; or email: *shams.dahnish@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background Information on the IRIS Program and Systematic Review Protocols

EPA's Integrated Risk Information System (IRIS) Program is a human health assessment program that evaluates quantitative and qualitative information on effects that may result from exposure to chemicals found in the environment. Through the IRIS Program, EPA provides high quality science-based human health assessments to support the Agency's regulatory activities and decisions to protect public health.

As part of developing a draft IRIS assessment, EPA presents a methods document, referred to as the protocol, for conducting a chemical-specific systematic review of the available scientific literature. EPA is seeking public comment on components of the protocol including the described strategies for literature searches, criteria for study inclusion or exclusion, considerations for evaluating study methods, information management for extracting data, approaches for synthesis within and across lines of evidence, and methods for derivation of toxicity values. The protocol serves to inform the subsequent development of the draft IRIS assessment. EPA may update the protocol based on the evaluation of the literature, and any updates will be posted to the docket and on the IRIS website.

II. How To Submit Technical Comments to the Docket at https://www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2014–0526 for Ethylbenzene, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email: Docket_ORD@epa.gov.*
- *Fax:* 202–566–9744.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center (ORD Docket), Mail Code: 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460. The phone number is 202–566–1752.

For information on visiting the EPA Docket Center Public Reading Room, visit *https://www.epa.gov/dockets.* The telephone number for the Public Reading Room is 202–566–1744. The public can submit comments via *www.regulations.gov* or email.

Instructions: Direct your comments to docket number EPA–HQ–ORD–2014–0526 for ethylbenzene. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *https://www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information through *https://www.regulations.gov* or email that you consider to be CBI or otherwise protected. The *https://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Docket: Documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *https://www.regulations.gov* or as a hard copy at the ORD Docket in the EPA Headquarters Docket Center.

Dated: February 9, 2023.

Wayne Cascio,

Director, Center for Public Health & Environmental Assessment.

[FR Doc. 2023–03452 Filed 2–16–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2023–0061; FRL–10581–01–OCSPP]

Certain New Chemicals; Receipt and Status Information for January 2023

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA),

as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act, to make information publicly available and to publish information in the **Federal Register** pertaining to submissions under TSCA Section 5, including notice of receipt of a Premanufacture notice (PMN), Significant New Use Notice (SNUN), or Microbial Commercial Activity Notice (MCAN), including an amended notice or test information; an exemption application (Biotech exemption); an application for a test marketing exemption (TME), both pending and/or concluded; a notice of commencement (NOC) of manufacture (including import) for new chemical substances; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review. This document covers the period from 1/1/2023 to 1/31/2023.

DATES: Comments identified by the specific case number provided in this document must be received on or before March 20, 2023.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2023–0061, 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.*

FOR FURTHER INFORMATION CONTACT: *For technical information contact:* Jim Rahai, Project Management and Operations Division (MC 7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@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. What action is the Agency taking?

This document provides the receipt and status reports for the period from 1/01/2023 to 1/31/2023. The Agency is providing notice of receipt of PMNs, SNUNs, and MCANs (including amended notices and test information); an exemption application under 40 CFR part 725 (Biotech exemption); TMEs, both pending and/or concluded; NOCs to manufacture a new chemical substance; and a periodic status report on new chemical substances that are currently under EPA review or have recently concluded review.

EPA is also providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

B. What is the Agency's authority for taking this action?

Under the Toxic Substances Control Act (TSCA), 15 U.S.C. 2601 *et seq.,* a chemical substance may be either an ''existing'' chemical substance or a ''new'' chemical substance. Any chemical substance that is not on EPA's TSCA Inventory of Chemical Substances (TSCA Inventory) is classified as a ''new chemical substance,'' while a chemical substance that is listed on the TSCA Inventory is classified as an ''existing chemical substance.'' (See TSCA section 3(11).) For more information about the TSCA Inventory please go to: *https://www.epa.gov/tsca-inventory.*

Any person who intends to manufacture (including import) a new chemical substance for a non-exempt commercial purpose, or to manufacture or process a chemical substance in a non-exempt manner for a use that EPA has determined is a significant new use, is required by TSCA section 5 to provide EPA with a PMN, MCAN, or SNUN, as appropriate, before initiating the activity. EPA will review the notice, make a risk determination on the chemical substance or significant new use, and take appropriate action as described in TSCA section 5(a)(3).

TSCA section 5(h)(1) authorizes EPA to allow persons, upon application and under appropriate restrictions, to manufacture or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a)(2), for ''test marketing'' purposes, upon a showing that the manufacture, processing, distribution in commerce, use, and disposal of the chemical will not present an unreasonable risk of injury to health or the environment. This is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *https://www.epa.gov/under-tsca.*

Under TSCA sections 5 and 8 and EPA regulations, EPA is required to publish in the **Federal Register** certain information, including notice of receipt of a PMN/SNUN/MCAN (including amended notices and test information); an exemption application under 40 CFR part 725 (biotech exemption); an application for a TME, both pending and concluded; NOCs to manufacture a new chemical substance; and a periodic status report on the new chemical substances that are currently under EPA review or have recently concluded review.

C. Does this action apply to me?

This action provides information that is directed to the public in general.

D. Does this action have any incremental economic impacts or paperwork burdens?

No.

E. What should I consider as I prepare my comments for EPA?

1. *Submitting confidential business information (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. Status Reports

In the past, EPA has published individual notices reflecting the status of TSCA section 5 filings received, pending or concluded. In 1995, the Agency modified its approach and streamlined the information published in the **Federal Register** after providing notice of such changes to the public and

an opportunity to comment (see the **Federal Register** of May 12, 1995 (60 FR 25798) (FRL–4942–7)). Since the passage of the Lautenberg amendments to TSCA in 2016, public interest in information on the status of section 5 cases under EPA review and, in particular, the final determination of such cases, has increased. In an effort to be responsive to the regulated community, the users of this information, and the general public, to comply with the requirements of TSCA, to conserve EPA resources and to streamline the process and make it more timely, EPA is providing information on its website about cases reviewed under the amended TSCA, including the section 5 PMN/SNUN/MCAN and exemption notices received, the date of receipt, the final EPA determination on the notice, and the effective date of EPA's determination for PMN/SNUN/MCAN notices on its website at: *https://www.epa.gov/reviewing-new-chemicals-under-toxic-substances-control-act-tsca/status-pre-manufacture-notices.* This information is updated on a weekly basis.

III. Receipt Reports

For the PMN/SNUN/MCANs that have passed an initial screening by EPA during this period, Table I provides the following information (to the extent that such information is not subject to a CBI claim) on the notices screened by EPA during this period: The EPA case number assigned to the notice that indicates whether the submission is an initial submission, or an amendment, a notation of which version was received, the date the notice was received by EPA, the submitting manufacturer (*i.e.,* domestic producer or importer), the potential uses identified by the manufacturer in the notice, and the chemical substance identity.

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that this information in the table is generic information because the specific information provided by the submitter was claimed as CBI. Submissions which are initial submissions will not have a letter following the case number. Submissions which are amendments to previous submissions will have a case number followed by the letter ''A'' (*e.g.,* P–18–1234A). The version column designates submissions in sequence as ''1'', ''2'', ''3'', etc. Note that in some cases, an initial submission is not numbered as version 1; this is because earlier version(s) were rejected as incomplete or invalid submissions. Note also that future versions of the following tables may adjust slightly as the Agency works to automate population of the data in the tables.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 01/01/2023 TO 01/31/2023

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
J–23–0001	7	12/30/2022	Lesaffre Yeast Corporation.	(G) Ethanol production	(G) Saccharomyces cerevisiae, modified to express glucoamylase activity.
J–23–0003	1	12/08/2022	CBI	(G) Production of an enzyme mixture.	(G) Microorganism expressing enzymes.
J–23–0003A	2	01/20/2023	CBI	(G) Production of an enzyme mixture.	(G) Microorganism expressing enzymes.
J–23–0003A	3	01/30/2023	CBI	(G) Production of an enzyme mixture.	(G) Microorganism expressing enzymes.
P–18–0365A	5	01/09/2023	CBI	(G) Superabsorbent polymer, (S) Manufacture for export only.	(G) Starch, carboxymethyl ether, sodium salt, polymer with polycarboxylic acid.
P–18–0366A	5	01/09/2023	CBI	(G) Superabsorbent polymer, (S) Manufacture for export only.	(G) Starch, carboxymethyl ether, sodium salt, polymer with mixed polycarboxylic acids.
P–19–0095A	7	12/22/2022	CBI	(G) Consumer Disposables, Polymer Sheet, Durable Goods.	(G) Poly hydroxy alkanoate.
P–22–0009A	4	01/25/2023	CBI	(S) Gasoline blending component to reduce the average carbon intensity and subsequent CO_2 emissions of fuel.	(S) Alkanes, C4–C9-branched and linear.
P–22–0054A	2	01/05/2023	CBI	(G) Additive for paint and coatings	(G) Graphene nanoplatelets.
P–22–0068A	3	01/24/2023	Aditya Birla Chemicals (USA), LLC.	(S) An epoxy component used in a reaction with other components to produce an epoxy article.	(S) 2-Propanamine, 1,1′-[(1-methylethylidene)bis(oxy)]bis-.
P–22–0182	6	01/16/2023	Goulston Technologies	(G) Textile wear additive	(G) Poly(ethylene terephthalate)-co-poly(propyl trimethylol alkanoate).
P–23–0014A	6	01/05/2023	CBI	(G) Intermediate in production of fragrance.	(G) [Polyalkyl-methylenepolyhydro-polycyclic]alkyl acetate.
P–23–0036A	3	01/10/2023	Elantas PDG, Inc	(S) MF8044 Resin is an unsaturated polyester resin used in an electrical insulation coating. The coating is used to insulate electrical components in automobiles.	(S) Castor oil, polymer with dicyclopentadiene, maleic anhydride, 2-methyl-1,3-propanediol, 3a,4,7,7a-tetrahydro-2-(2-hydroxyethyl)-1H-isoindole-1,3(2H)-dione and triethylene glycol.
P–23–0042A	2	01/10/2023	Clariant Corporation	(S) Intermediate for use in producing polymers.	(G) Oxirane, alkyl-, polymer with oxirane, monoethers with polyethylene glycol alkenyl ether.
P–23–0045	3	01/05/2023	Colonial Chemical, Inc	(S) Water based metalworking fluids, Metal cleaners, Metal treating fluids.	(G) Carboxylic acid, compound with 2,2′,2″-nitrilotris[ethanol] (1:1);(G) Carboxylic acid, compound with 2-aminoethanol (1:1).
P–23–0045A	4	01/20/2023	Colonial Chemical, Inc	(S) Water based metalworking fluids, Metal cleaners, Metal treating fluids.	(G) Carboxylic acid, compound with 2,2′,2″-nitrilotris[ethanol] (1:1);(G) Carboxylic acid, compound with 2-aminoethanol (1:1).

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 01/01/2023 TO 01/31/2023—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
P–23–0048A	3	12/28/2022	Dynax Corporation	(G) Additive used in industrial and commercial applications.	(G) Alkenoic acid, reaction products with polyalkenimine, poly-mercapto alkanolester and C6-fluoro haloalkane, compds. with alkanolamine.
P–23–0061	1	12/29/2022	CBI	(G) Plastic resin	(G) Alkanoic acid, substituted, polymer with substituted alkanoic acid, from fermentation of fermentable sugars.
P–23–0061A	2	01/30/2023	CBI	(G) Plastic resin	(G) Alkanoic acid, substituted, polymer with substituted alkanoic acid, from fermentation of fermentable sugars.
P–23–0064	1	01/09/2023	CBI	(G) Component in aerospace coatings.	(G) Alkanediol, substituted, polymer with diisocyanatoalkane, substituted heterocycle-modified.
P–23–0065	1	01/11/2023	Cytec Industries, Inc	(G) Industrial process chemical	(G) Alkyl acid, 2-hydroxy-, methyl substituted alkyl ester.
P–23–0066	1	01/17/2023	CBI	(G) An antioxidant additive	(G) alkylated phenyl-naphthalene amine.
P–23–0068	4	01/30/2023	US Polymers Accurez, LLC.	(S) Ingredient in industrial primers and topcoats.	(S) 1,3-Isobenzofurandione, hexahydro-, polymer with 1,4-cyclohexanedimethanol, isononanoate.
P–23–0071	1	01/18/2023	Colonial Chemical, Inc	(S) Water based metalworking fluids, Metal cleaner.	(G) alkyl dicarboxylic acid, compound with 2,2′,2″-nitrilotris[ethanol] (1:?).
P–23–0073	1	01/24/2023	Heraeus Epurio, LLC	(S) Use as a photoacid generator for photoresist applications.	(S) Methanesulfonic acid, 1,1,1-trifluoro-, 1,3-dioxo-1H-benz[de]isoquinolin-2(3H)-yl ester.
P–23–0074	1	01/24/2023	BASF Corporation	(S) Monomer used in the production of polymers.	(S) 2-Propenoic acid, 2-methyl-, C13–15-branched and linear alkyl esters.
P–23–0075	1	01/25/2023	Colonial Chemical, Inc	(S) Lubricant additive, water based cutting fluids, institutional cleaning products, and cleaning in place applications (G) Surfactant used in personal care products.	(G) Amides, vegetable oil, hydroxylated amine, amides, soya, hydroxylated amine.
P–23–0076	1	01/26/2023	CBI	(G) Dyestuff	(G) 1,5-Carbopolycycle disulfonic acid, 2-[2-[8-[[4-chloro-6-(ethylcarbomonocyclic amino)-heteromonocyclic]amino]-1-hydroxy-3,6-disulfo-2-carbopolycyclic]diazenyl]-, sodium salt (1:4).
SN–23–0002	2	12/30/2022	CBI	(G) The LCPFACs have no function or application.	(S) Octanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-pentadecafluoro-.
SN–23–0003	2	12/30/2022	CBI	(G) The LCPFACs have no function or application.	(S) Dodecanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,12-tricosafluoro-.
SN–23–0004	2	12/30/2022	CBI	(G) The LCPFACs have no function or application.	(S) Nonanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,9-heptadecafluoro-.
SN–23–0005	2	12/30/2022	CBI	(G) The LCPFACs have no function or application.	(S) Decanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,10-nonadecafluoro-.
SN–23–0006	2	12/30/2022	CBI	(G) The LCPFACs have no function or application.	(S) Undecanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,11-heneicosafluoro-.
SN–23–0007	3	01/09/2023	Allnex USA, Inc	(S) EBECRYL MPDDA is a difunctional acrylated monomer which polymerizes when exposed to sources of free radicals such as application in UV/EB cured inks, additive manufacturing, adhesives, composites, 3D printing and coatings systems, and is used as an additive where improved elasticity, weathering, and adhesion are desired in combination with an excellent water resistance.	(S) 2-Propenoic acid, 1,1′-(3-methyl-1,5-pentanediyl) ester.
SN–23–0008	2	12/30/2022	CBI	(G) The LCPFACs have no function or application.	(S) Tetradecanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,14-heptacosafluoro-.
SN–23–0009	2	12/30/2022	CBI	(G) The LCPFACs have no function or application.	(S) Tridecanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,13-pentacosafluoro-.

TABLE I—PMN/SNUN/MCANS APPROVED * FROM 01/01/2023 TO 01/31/2023—Continued

Case No.	Version	Received date	Manufacturer	Use	Chemical substance
SN–23–0010	2	12/30/2022	CBI	(G) The LCPFACs have no function or application.	(S) Hexadecanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,16-. hentriacontafluoro-
SN–23–0011	2	12/30/2022	CBI	(G) The LCPFACs have no function or application.	(S) Octadecanoic acid, 2,2,3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10,11,11,12,12,13,13,14,14,15,15,16,16,17,17,18,18,18-pentatriacontafluoro-.
SN–23–0012	4	01/04/2023	Dynax Corporation	(G) Additive used in industrial and commercial applications.	(G) Polyfluorinated alkyl polyamide.

In Table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the NOCs that have passed an initial screening by EPA during this period: The EPA case number assigned to the NOC including whether the submission was an initial or amended submission, the date the NOC was received by EPA, the date of commencement provided by the submitter in the NOC, a notation of the type of amendment (*e.g.,* amendment to generic name, specific name, technical contact information, etc.) and chemical substance identity.

TABLE II—NOCS APPROVED * FROM 01/01/2023 TO 01/31/2023

Case No.	Received date	Commencement date	If amendment, type of amendment	Chemical substance
J–22–0015	01/09/2023	01/06/2023	N	(G) Modified yeast, chromosomally and stably modified to improve fermentation performance.
P–15–0691A	01/24/2023	07/21/2022	Amended generic chemical name.	(G) Polyamidoamine with substituted ethyleneamine, sodium salt.
P–15–0734A	01/24/2023	08/01/2022	Amended generic chemical name.	(G) Polyamidoamine with substituted ethyleneamine, n-carbodithioate, sodium salt.
P–17–0235	01/11/2023	11/28/2022	N	(G) Amidoamine quaternary ammonium salt.
P–19–0186	01/18/2023	01/18/2023	N	(S) Benzoic acid, 2-chloro-5-methyl-, sodium salt (1:1).
P–21–0137	01/09/2023	09/09/2022	N	(G) Triazine-trione, tris(isocyanatoalkyl)-, polymer with substituted diisocyanato alkylcarbomonocycle, ydro-hydroxypoly(oxyalkanediyl) and hydro-hydroxypoly[oxy(alkyl-alkanediyl)], aliphatic alkyl amine-blocked.
P–21–0138	01/30/2023	01/17/2023	N	(G) Lithium metal oxide.
P–21–0176	01/30/2023	12/29/2022	N	(S) Dodecanedioic acid, 1,12-bis[2-[4-(4,6-diphenyl-1,3,5-triazin-2-yl)-3-hydroxyphenoxy]ethyl]ester.
P–97–0954	01/13/2023	10/23/2020	N	(G) Polymeric, alcohol-blocked aromatic isocyanate.

* The term 'Approved' indicates that a submission has passed a quick initial screen ensuring all required information and documents have been provided with the submission.

In Table III of this unit, EPA provides the following information (to the extent such information is not subject to a CBI claim) on the test information that has been received during this time period: The EPA case number assigned to the test information; the date the test information was received by EPA, the type of test information submitted, and chemical substance identity.

TABLE III—TEST INFORMATION RECEIVED FROM 01/01/2023 TO 01/31/2023

Case No.	Received date	Type of test information	Chemical substance
P–14–0712	01/11/2023	Polychlorinated Dibenzodioxins and Polychlorinated dibenzofurans Testing.	(S) Waste plastics, pyrolyzed, C5–55 fraction.
P–16–0543	01/18/2023	Exposure Monitoring Report	(G) Halogenophosphoric acid metal salt.
P–16–0543	01/06/2023	Exposure Monitoring Report	(G) Halogenophosphoric acid metal salt.
P–18–0168	01/27/2023	Surface Tension Testing	(G) Alkoxylated triaryl methane.

If you are interested in information that is not included in these tables, you may contact EPA's technical information contact or general information contact as described under **FOR FURTHER INFORMATION CONTACT** to access additional non-CBI information that may be available.

Authority: 15 U.S.C. 2601 *et seq.*
Dated: February 13, 2023.

Pamela Myrick,

Director, Project Management and Operations Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2023–03362 Filed 2–16–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R08–OW–2019–0404; FRL–10648–01–R8]

Proposed Information Collection Request; Comment Request; Filter Adoption Survey Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency is planning to submit an information collection request (ICR) ''Filter Adoption Survey'' (EPA ICR No. 2615.02, OMB Control No. 2008–0003) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR which is currently set to expire on 9/30/23. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before April 18, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–OW–2019–0404, to the Federal Rulemaking Portal: *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *www.regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *www2.epa.gov/dockets/commenting-epa-dockets.* Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air and Radiation Division, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Robert Parker, Section Chief, Drinking Water Section B, Water Division, 8WD–SDB, Environmental Protection Agency Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129 telephone number: (303) 312–6664; email address: *parker.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *https://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** document to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: Denver Water is a public water system which must comply with applicable requirements of the lead and copper rule (LCR). On September 6, 2019 Denver Water submitted to the U.S. Environmental Protection Agency Region 8 office a request for a variance from the optimal corrosion control treatment requirements under the Safe Drinking Water Act's LCR (2019 Variance). The request included a multi-pronged approach to result in at least as efficient lead removal to orthophosphate, the designated optimal corrosion control treatment. Three of those prongs of the variance request are: pH and alkalinity adjustments to reduce corrosivity of the water; accelerated lead service line removal; and a filter program where Denver Water will distribute pitcher filters to consumers with confirmed, likely, and unlikely lead service lines. Under section 1415(a)(3) of the Safe Drinking Water Act, on December 16, 2019, the U.S. EPA granted Denver Water a variance from the definition of ''optimal corrosion control treatment'' in 40 CFR 141.2. The 2019 Variance contains requirements to determine the efficacy of the filter program. On November 30, 2022, EPA issued a new variance (Variance) because the 2019 Variance was set to expire in 2023. Denver Water, EPA and CDPHE agreed that a survey that would be conducted every two years (rather than annually) beginning in 2025 would be sufficient to determine efficacy of the filter program. EPA will continue to use the 2025 survey results that Denver Water collects, to determine the consumer filter adoption rate, and to confirm whether customers are using and maintaining the filters correctly, and per manufacturer's instructions. Every second year, the filter adoption survey will be sent by Denver Water via postal mail to an estimated 20,000 statistically representative number of consumers that have confirmed, likely, and unlikely lead service lines. Surveys will be sent via direct mailings and will

include an online completion option (the survey questions are included below). Direct mailings will be sent with a unique QR code to track which addresses responses have been received from. Surveys will be sent out in both English and Spanish. Additionally, Denver Water will conduct, in-person surveys at a minimum of 50 locations in use by customers enrolled in the filter program every six months. Information being collected is information on if, and how, consumers use the filter (*e.g.,* for drinking, cooking, or making infant-fed formula), whether the customers are using and maintain the filters correctly (*e.g.* washing, replacing the filters per manufacturer's instructions), as well as demographic information to inform filter adoption rate by neighborhood or demographic group so Denver Water's health equity and environmental justice principles set forth in their variance request can be evaluated.

Form numbers: 6700–009.

Respondents/affected entities: 2,000 people (estimated).

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 2,000 (estimated).

Frequency of response: 2025 and every second year after that.

Total estimated burden: 423 hours.

Total estimated cost: $33,421 in 2025.

BILLING CODE 6560–50–P

Filter Adoption Survey

1. Do you always, or most of the time, use your pitcher provided by Denver Water for drinking water?

- Yes.
- No – I use unfiltered tap water.
- No – I use bottled water or a different type of filtration system certified to remove lead in accordance with NSF/ANSI 53 standards (e.g., fridge, under the sink filter, sink-mounted filter).

2. Do you always, or most of the time, use your pitcher when you are cooking foods where water is a base ingredient (examples: making rice, beans, soup)?

- Yes
- No

2a. If your answer to No. 2 above is no, why are you **not** using the pitcher for cooking?

- Prefer to use unfiltered tap water.
- Prefer to use bottled water for cooking food.
- Prefer to use a different type of filtration system certified to remove lead in accordance with NSF/ANSI 53 standards (e.g., fridge filter, under the sink filter, sink-mounted filter).
- Do not cook.
- Other _____

3. Do you have a formula-fed infant (under 24 months of age) in your household?

- Yes
- No

3a. If yes, what water do you always use to mix the formula (select all that apply)?

- Not applicable (I don't feed formula to my infant, or use pre-mix/ready mix)
- Water from the pitcher filter
- Bottled water
- Water filtered by an alternative filter device (fridge filter, under the sink filter, sink-mounted filter or other filter) certified to remove lead in accordance with NSF/ANSI 53 standards
- Unfiltered tap water

4. Have you or will you be replacing the pitcher's filter with the Denver Water provided replacement filters as recommended by the manufacturer?

- Yes
- No
  - If no, why not? (please describe)

5. The filter manufacturer recommends hand-washing the pitcher with a mild detergent. Are you cleaning your pitcher as recommended by the manufacturer?

- Yes
- No

6. What would make you more likely to use the pitcher provided? (Check all that apply)

- ¨ Larger pitcher
- ¨ Lighter pitcher
- ¨ Pitcher that fits in the refrigerator
- ¨ Pitcher that takes less time to fill
- ¨ Pitcher that takes less effort to use
- ¨ Not interested in filtering drinking water
- ¨ Do not cook or use tap water for cooking
- ¨ Other, please specify: (fill in the blank)

The questions below are optional. Denver Water will only use your demographic information for research purposes and to better inform our outreach and communication activities.

7a. Are you of Hispanic, Latino, or of Spanish origin?

Yes

No

7b. How would you describe yourself? (Check all that apply)

White

Black or African American

Native American or Alaska Native

Asian

Native Hawaiian and Other Pacific Islander

Multi-racial

Other (specify)

I do not know

Prefer not to say

8. What is the age of the youngest person in your household?

Someone in the household is expecting

Under 2 years old 2-6 years old 7-17 years old 18-54 years old Over 55 years old Prefer not to say
9. What is the primary language of your household? (Check all that apply) English Spanish Other (specify) Prefer not to say
10. How much total combined money did all members of your household earn in the previous calendar year (gross income)? $0-$29,999 $30,000-49,999 $50,000-99,999 $100,000-149,999 $150,000 or more Prefer not to say
11. What is the highest level of school you have completed, or the highest degree you have received? Less than high school degree High school degree or equivalent (e.g., GED) Some college but no degree Associate degree Bachelor's degree Graduate degree Prefer not to say

12. Do you rent or own your home?

I rent my home [checkbox]

I own my home [checkbox]

Dated: February 10, 2023.

Sarah Bahrman,

Chief, Safe Drinking Water Branch.

[FR Doc. 2023–03434 Filed 2–16–23; 8:45 am]

BILLING CODE 6560–50–C

ENVIRONMENTAL PROTECTION AGENCY

[FRL–10630–01–OMS]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, Delaware Division of Public Health (DE DPH)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the Environmental Protection Agency's (EPA) approval of the Delaware Division of Public Health (DE DPH) request to revise/modify certain of its EPA-authorized programs to allow electronic reporting.

DATES: EPA approves the authorized program revisions/modifications as of February 17, 2023.

FOR FURTHER INFORMATION CONTACT: Shirley M. Miller, U.S. Environmental Protection Agency, Office of Information Management, Mail Stop 2824T, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (202) 566–2908, *miller.shirley@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On January 13, 2023, the Delaware Division of Public Health (DE DPH) submitted an application titled Compliance Monitoring Data Portal (CMDP) for revisions/modifications to its EPA-approved programs under title 40 CFR to allow new electronic reporting. EPA reviewed DE DPH's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the application met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve DE DPH's request to revise/modify its following EPA-authorized programs to allow electronic reporting under 40 CFR is being published in the **Federal Register**:

Part 142: National Primary Drinking Water Regulations Implementation (NPDWR) reporting under CFR 141 DE DPH was notified of EPA's determination to approve its application with respect to the authorized programs listed above. Also, in this notice, EPA is informing interested persons that they may request a public hearing on EPA's action to approve the State of Delaware's request to revise its authorized public water system program under 40 CFR part 142, in accordance with 40 CFR 3.1000(f). Requests for a hearing must be submitted to EPA within 30 days of publication of this **Federal Register** notice. Such requests should include the following information:

(1) The name, address, and telephone number of the individual, organization or other entity requesting a hearing;

(2) A brief statement of the requesting person's interest in EPA's determination, a brief explanation as to why EPA should hold a hearing, and any other information that the requesting person wants EPA to consider when determining whether to grant the request;

(3) The signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

In the event a hearing is requested and granted, EPA will provide notice of the hearing in the **Federal Register** not less than 15 days prior to the scheduled hearing date. Frivolous or insubstantial requests for hearing may be denied by EPA. Following such a public hearing, EPA will review the record of the hearing and issue an order either affirming this determination or rescinding such determination. If no timely request for a hearing is received and granted, EPA's approval of the State of Delaware's request to revise its part 142—National Primary Drinking Water Regulations Implementation program to allow electronic reporting will become effective 30 days after this notice is published, pursuant to CROMERR section 3.1000(f)(4).

Dated: February 10, 2023.

Jennifer Campbell,

Director, Office of Information Management.

[FR Doc. 2023–03361 Filed 2–16–23; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 127534]

Deletion of Item From February 16, 2023 Open Meeting

The following item was released by the Commission on February 14, 2023 and deleted from the list of items scheduled for consideration at the Thursday, February 16, 2023, Open Meeting. The item was previously listed in the Commission's Sunshine Notice on Thursday, February 9, 2023.

3	MEDIA	*Title:* Restricted Adjudicatory Matter. *Summary:* The Commission will consider a restricted adjudicatory matter.

Federal Communications Commission.

Dated: February 14, 2023.

Marlene Dortch,

Secretary.

[FR Doc. 2023–03465 Filed 2–16–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm*. Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than March 6, 2023.

Federal Reserve Bank of Dallas (Karen Smith, Director, Mergers & Acquisitions) 2200 N Pearl St., Dallas, Texas 75201 or electronically: *Comments.applications@dal.frb.org:*

1. *The Rumage Family Trust fbo Christopher Blain Rumage, C. Blain Rumage, as trustee, both of Jacksboro, Texas, Carl A. Ritchlin, as trust protector, Arlington, Texas, and Christy M. Peveto, as special trustee, Fort Worth, Texas; and The Rumage Family Trust fbo William Wakley Rumage, William W. Rumage, as trustee, both of Gunter, Texas, Carl A. Ritchlin, as trust protector, Arlington, Texas, and Christy M. Peveto, as special trustee, Fort Worth, Texas;* to join the Voting Trust Control Group, a previously approved group acting in concert, to retain voting shares of Jacksboro National Bancshares, Inc., and thereby indirectly retain voting shares of Jacksboro National Bank, both of Jacksboro, Texas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–03423 Filed 2–16–23; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Supplemental Evidence and Data Request on Behavioral Interventions for Migraine Prevention

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 Behavioral Interventions for Migraine Prevention, 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 March 20, 2023.

ADDRESSES:

Email submissions: epc@ahrq.hhs.gov.

Print submissions:

Mailing Address: Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E53A, Rockville, MD 20857.

Shipping Address (FedEx, UPS, etc.): Center for Evidence and Practice Improvement, Agency for Healthcare Research and Quality, ATTN: EPC SEADs Coordinator, 5600 Fishers Lane, Mail Stop 06E77D, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: 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 Centers (EPC) Program to complete a review of the evidence for Behavioral Interventions for Migraine Prevention. 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 Behavioral Interventions for Migraine Prevention, including those that describe adverse events. The entire research protocol is available online at: *https://effectivehealthcare.ahrq.gov/products/behavioral-interventions-migraine-prevention/protocol.*

This is to notify the public that the EPC Program would find the following information on Behavioral Interventions for Migraine Prevention 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)

KQ 1: What are the benefits and harms of behavioral interventions, either alone or in combination with other preventive strategies (including pharmacologic therapy), for migraine prevention compared to inactive control for children and adults?

KQ 1a: What are the benefits and harms of behavioral interventions delivered via telehealth and digital health (e/mHealth) technology compared to inactive control?

KQ 2: What is the comparative effectiveness and harms of a behavioral intervention for migraine prevention compared to either (a) a pharmacologic preventive agent or (b) another behavioral intervention for children and adults?

KQ 2a: What is the comparative effectiveness and harms of behavioral interventions delivered via telehealth and digital health (e/mHealth) technology compared to (a) pharmacologic prevention or (b) other behavioral interventions?

KQ 3: For multicomponent or combined behavioral interventions, what are the effects of individual behavioral intervention components?

KQ 4: What are the benefits and harms of non-headache focused behavioral interventions (*e.g.,* CBT for insomnia, CBT for depression/anxiety, parent training) for migraine prevention in children and adults with migraine?

KQ 5: For key questions 1–4, how do the findings vary by baseline biopsychosocial factors (*e.g.,* sex, socioeconomic status, co-occurring mental health conditions)?

Contextual Questions

CQ 1: What evidence is available on the benefits of behavioral preventive treatments for children and adults with migraine that include intervention components targeting caregivers (*e.g.,* parents, spouses, and other key support people)?

CQ 2: What are patient and provider perceptions of the benefits, harms, and barriers to engaging with behavioral treatments for migraine prevention in children and adults?

PICOTS (Populations, Interventions, Comparators, Outcomes, Timing, and Setting)

PICOTS	Inclusion	Exclusion
Patients	All KQs: • Children (age 6 to 11), adolescents (12 to 17), and adults (18 or older) with migraine headache (episodic or chronic). We will not require studies to only include individuals with an International Classification of Headache Disorders diagnosis of migraine headache. • ≥80% of study participants had migraine headache, or the study reports a subgroup analysis comprised of at least 80% migraine patients. • We will include studies with participants with other headache types (*e.g.,* medication overuse headache, tension type headache, cluster headache, etc.) in addition to migraine, as long as ≥80% of participants have migraine.	All KQs: Studies conducted exclusively • Among individuals in institutions (*e.g.,* psychiatric inpatients, long-term care facilities, incarcerated populations). • Parents, for studies with interventions targeting children and adolescents. • Individuals with psychotic disorders.
Interventions	KQs 1–3. Migraine-focused behavioral interventions used for prevention, administered either alone or with pharmacotherapy, delivered in-person, via telehealth, or with e- or mHealth. 1. CBT. • Cognitive behavioral therapy.	We will exclude studies focused solely on the following interventions:

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, TIMING, AND SETTING)—Continued

PICOTS	Inclusion	Exclusion
	• Cognitive therapy • Behavioral therapy • Stress management training (SMT) • Coping skills training • "Learning to cope with triggers" (LCT) • Parent/caregiver operant training (parent or caregiver reinforces coping behaviors). • Problem-solving training. 2. Biofeedback. • Thermal/temperature biofeedback (Hand warming/Thermal biofeedback) (often feedback of skin temperature from finger). • Electromyographic (EMG) biofeedback (feedback of electrical activity from muscles of scalp, neck, or upper body). • Heart rate variability biofeedback. • Electrocardio biofeedback. • Pulse. • Blood Volume Pulse. • Respiratory. • Electroencephalography (EEG)/Neurofeedback. 3. Relaxation. • Diaphragmatic Breathing. • Progressive muscle relaxation (alternatively tensing/relaxing selected muscles). • Autogenic feedback (use of calm, self-soothing statements to promote a state of deep relaxation). • Autogenic training. 4. Mindfulness based stress reduction. • Meditation (use of silently repeated word or sound to promote mental calm and relaxation). • Transcendental meditation. • Guided imagery/Guided visual imagery. 5. Third wave CBT. • Acceptance and commitment therapy. 6. Education. • Education (skills, lifestyle, exercise, nutrition, hydration, stress management, sleep hygiene). • Neuroscience education therapy. • Healthy lifestyle counseling. • Sleep counseling. • Trigger avoidance. • Weight management (informational). • Diary/tracking. 7. Hypnotherapy. 8. Trauma-informed therapy. • Eye movement desensitization and reprocessing (EMDR). • Trauma-focused therapy. 9. Dialectical behavioral therapy (DBT). 10. Motivational interviewing and stages of change. 11. Professionally led support groups/peer support. 12. Combination therapies. KQ1a and KQ2a: The above interventions delivered via telehealth or with e- or mHealth. KQ 4. Non-headache focused behavioral interventions, *e.g.,* • CBT for insomnia or depression/anxiety. • Sleep hygiene counseling. • Parent/caregiver operant training (parent or caregiver reinforces adaptive sleep behaviors). • Healthy lifestyle counseling. KQ5 Interventions included for KQs 1–4.	• Physical therapy. • Exercise. • Catharsis therapy (*e.g.,* written emotional disclosure). • Occupational therapy. • Creative arts therapy (art therapy, music therapy, dance therapy).
Comparisons	KQs 1 • No intervention (*e.g.,* waitlist, usual care) • Minimal intervention (*e.g.,* educational materials without skills training). • Most active: Attention control, sham, or placebo KQs 2–4. A different eligible behavioral intervention.	Comparators not listed as included.

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, TIMING, AND SETTING)—Continued

PICOTS	Inclusion	Exclusion
	KQ 2–4. Medications from the following drug classes (see Table 2): • Alpha agonists. • Angiotensin-converting enzyme inhibitors/ Angiotensin receptor blockers. • Antiepileptics. • Antihistamines (for child and adolescents only). • Beta-blockers. • Botulinum toxin type A. • Calcitonin gene–related peptide antagonists. • Calcium channel blockers. • Other antidepressants. • Serotonin norepinephrine reuptake inhibitors (SNRIs). • Tricyclic antidepressants. KQ5 Comparators in KQs 1–4.	
Outcomes	All KQs. Migraine/Headache frequency: • Migraine/headache count: Migraine days per month, migraine attacks per month, headache days per month, or headaches per month.. • Responder rate: 50% or more reduction in one of the above quantities. Functional Status/Disability. • MIDAS, PedMIDAS, HANA, MIBS, FIS, FDI (Parent form), FDI-(child and adolescent), IMPAC). Quality of Life (QOL). • Migraine Specific: HIT–6, MSQoL v2.1, MSQ ..... • General: SF–36, EQ–5, SF–12, PedsQL. Adverse effects such as dropout and any reported. Emotional Status. • Anxiety symptoms (*e.g.,* GAD–7, PROMIS Pediatric—Anxiety, HADS). • Depression symptoms (*e.g.,* PHQ4, PHQ 9, CDI, PROMIS Pediatric-Depression, HADS). Other: • Most bothersome symptoms. • Headache pain intensity (VAS, NRS). • Acute headache medication use. • Discontinuation of preventive medication. KQ 4. Additional outcomes: • Anxiety (*e.g.,* GAD–7, PROMIS Pediatric—Anxiety). • Depression (*e.g.,* PHQ 4, PHQ 9, CDI, PROMIS Pediatric-Depression). • Sleep outcomes (sleep onset latency, wake after sleep onset, total sleep time, sleep efficiency).	
Study Design Criteria	All KQs: ..... • Randomized controlled trials reporting outcomes for ≥10 participants per treatment arm. • Period 1 data from crossover RCTs ..... • Published in English-language ..... • Published 1975 or after ..... For KQ1–4, we will require studies to report at least one of four primary outcomes: Migraine/Headache frequency, migraine-related disability, migraine-specific quality of life, and/or adverse events.	All KQs: • Exclude crossover trials not reporting period 1 data separately. • Exclude reviews, letters, guidelines, position statements and commentaries. • Exclude single arm or non-randomized controlled studies. SRs will only be used to identify potential RCTs for inclusion.
Setting	• Any non-inpatient setting ..... • Trials conducted in countries rated as "very high" on the 2022 Human Development Index (as defined by the United Nations Development Programme).	Hospitalized patients.

PICOTS (POPULATIONS, INTERVENTIONS, COMPARATORS, OUTCOMES, TIMING, AND SETTING)—Continued

PICOTS	Inclusion	Exclusion
Timing	Studies must report a primary outcome at 4 weeks or longer after treatment initiation.	

CDI = Children's Depression Inventory, EQ–5D = EuroQol-5D, FDI-Child Form = Functional Disability Inventory—Child and Adolescent Form, FDI-Parent Form = Functional Disability Inventory—Parent Form, FIS = Fatigue Impact Scale, GAD–7 = General Anxiety Disorder-7, HADS = Hospital Anxiety and Depression Scale, HANA = Headache Needs Assessment, HIT–6™ = Headache Impact Test, IMPACT = Impact of Migraine on Partners and Adolescent Children, MIBS = Migraine Interictal Burden Scale, MIDAS = Migraine Disability Assessment, MSQ = Migraine Specific Quality of Life Questionnaire v. 2.1, NRS = Numeric Rating Scale, PedMIDAS = Pediatric Migraine-Specific Disability Assessment, PedsQL = Pediatric Quality of Life Inventory, PHQ = Patient Health Questionnaire–Depression, PQ–LES–Q = Pediatric quality of life enjoyment and satisfaction, SF–12 = 12-Item Short Form Survey, SF–36 = 36-Item Short Form Survey, VAS = Visual Analogue Scale.

Dated: February 14, 2023.

Marquita Cullom,

Associate Director.

[FR Doc. 2023–03406 Filed 2–16–23; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting for Software Developers on the Common Formats for Patient Safety Data Collection

AGENCY: Agency for Healthcare Research and Quality (AHRQ), Department of Health and Human Services (HHS).

ACTION: Notice of public meeting.

SUMMARY: AHRQ coordinates the development of sets of standardized definitions and formats (Common Formats) that make it possible to collect, aggregate, and analyze uniformly structured information about health care quality and patient safety for local, regional, and national learning. The Common Formats include technical specifications to facilitate the collection of electronically comparable data by Patient Safety Organizations (PSOs) and other entities. Additional information about the Common Formats can be obtained through AHRQ's PSO website at *https://pso.ahrq.gov/common-formats* and the PSO Privacy Protection Center's website at *https://www.psoppc.org/psoppc_web/publicpages/commonFormatsOverview.* The purpose of this notice is to announce a meeting to discuss implementation of the Common Formats with software developers and other interested parties. This meeting is designed as an interactive forum where software developers can provide input on use of the formats. AHRQ especially requests participation by and input from those entities which have used AHRQ's technical specifications and implemented, or plan to implement, the Common Formats electronically.

DATES: The meeting will be held from 2:00 to 2:45 p.m. Eastern on Thursday, March 16, 2023.

ADDRESSES: The meeting will be held virtually.

FOR FURTHER INFORMATION CONTACT: Dr. Hamid Jalal, Medical Officer, Center for Quality Improvement and Patient Safety, AHRQ, 5600 Fishers Lane, Rockville, MD 20857; Telephone (toll free): (866) 403–3697; Telephone (local): (301) 427–1111; TTY (toll free): (866) 438–7231; TTY (local): (301) 427–1130; Email: *pso@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Patient Safety and Quality Improvement Act of 2005, 42 U.S.C. 299b–21 to 299b–26 (Patient Safety Act), and the related Patient Safety and Quality Improvement Final Rule, 42 CFR part 3 (Patient Safety Rule), published in the **Federal Register** on November 21, 2008, 73 FR 70731–70814, provide for the Federal listing of Patient Safety Organizations (PSOs), which collect, aggregate, and analyze confidential information (patient safety work product) regarding the quality and safety of health care delivery.

The Patient Safety Act requires PSOs, to the extent practical and appropriate, to collect patient safety work product from providers in a standardized manner that permits valid comparisons of similar cases among similar providers. (42 U.S.C. 299b–24(b)(1)(F)). The Patient Safety Act also authorizes the development of data standards, known as the Common Formats, to facilitate the aggregation and analysis of non-identifiable patient safety data collected by PSOs and reported to the network of patient safety databases (NPSD). (42 U.S.C. 299b–23(b)). The Patient Safety Act and Patient Safety Rule can be accessed at: *http://www.pso.ahrq.gov/legislation/.*

AHRQ has issued Common Formats for Event Reporting (CFER) for three settings of care—hospitals, nursing homes, and community pharmacies. AHRQ has also issued Common Formats for Event Reporting—Diagnostic Safety (CFER–DS) designed for use in all healthcare settings.

Federally listed PSOs can meet the requirement to collect patient safety work product in a standardized manner to the extent practical and appropriate by using AHRQ's Common Formats. The Common Formats are also available in the public domain to encourage their widespread adoption. An entity does not need to be listed as a PSO or working with one to use the Common Formats. However, the Federal privilege and confidentiality protections only apply to information developed as patient safety work product by providers and PSOs working under the Patient Safety Act.

Agenda, Registration, and Other Information About the Meeting

The Agency for Healthcare Research and Quality (AHRQ) will be hosting this fully virtual meeting to discuss implementation of the Common Formats with members of the public, including software developers and other interested parties. Agenda topics will include discussion of the Network of Patient Safety Databases, including the Falls 2022 Supplemental Dashboard. Active participation and discussion by meeting participants is encouraged.

AHRQ requests that interested persons send an email to *SDMeetings@infinityconferences.com* for registration information. Before the meeting, an agenda and logistical information will be provided to registrants.

Dated: February 13, 2023.

Marquita Cullom,

Associate Director.

[FR Doc. 2023–03328 Filed 2–16–23; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–23–1080; Docket No. CDC–2023–0010]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled HIV Outpatient Study (HOPS). HOPS is a CDC data collection for standardized HIV clinical and behavioral data at private HIV care practices and university-based U.S. clinics participating in the HOPS program.

DATES: CDC must receive written comments on or before April 18, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2023–0010 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road, NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7118; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

HIV Outpatient Study (HOPS) (OMB Control No. 0920–1080, Exp. 02/29/2024)—Extension—National Center for HIV, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) requests a three-year approval for the HIV Outpatient Study (HOPS) data collection. HOPS is a prospective longitudinal cohort of patients in HIV care at eight well established private HIV care practices and university-based U.S. clinics, in: Tampa, Florida; Washington, DC; Stony Brook, New York; Chicago, Illinois; Denver, Colorado; and Philadelphia, Pennsylvania. Clinical data are abstracted on an ongoing basis from the medical records of adult HOPS study participants, who also complete an optional telephone/web-based behavioral assessment as part of their annual clinic visit, which on average takes about seven minutes. Before enrolling in this study, all potential study participants will undergo an informed consent process (including signing of a written informed consent) which is estimated to take 15 minutes.

The core areas of HOPS research extending through the present HIV treatment era include: (i) monitoring death rates and causes of death; (ii) characterizing the optimal patient management strategies to reduce HIV related morbidity and mortality (*e.g.,* effectiveness of antiretroviral therapies and other clinical interventions); (iii) monitoring of sexual and drug use behaviors to inform prevention for persons living with HIV; and (iv) investigating disparities in the HIV care continuum by various demographic factors. In recent years, HOPS has been instrumental in bringing attention to emerging issues in chronic HIV infection with actionable opportunities for prevention, including cardiovascular disease, fragility fractures, renal and hepatic disease, and cancers. HOPS remains an important source for multiyear trend data concerning conditions and behaviors for which data are not readily available elsewhere, including: Rates of opportunistic illnesses; rates of comorbid conditions (*e.g.,* hypertension, obesity, diabetes); and antiretroviral drug resistance.

Data will be collected through medical record abstraction by trained abstractors and by telephone or internet-based, computer-assisted interviews at eight funded study sites in six U.S. cities. Collection of data abstracted from patient medical records provides data in five general categories: Demographics and risk behaviors for HIV infection; symptoms; diagnosed conditions (definitive and presumptive); medications prescribed (including dose, duration, and reasons for stopping); and all laboratory values, including CD4+ Tlymphocyte (CD4+) cell counts, plasma HIV–RNA determinations, and genotype, phenotype, and trophile results. Data on visit frequency, AIDS, and death are acquired from the clinic chart. Data collected using a brief Telephone Audio-Computer Assisted Self- Interview (T–ACASI) survey or an identical Web-based Audio-Computer Assisted Self-Interview (ACASI) include: Age, sex at birth, use of alcohol and drugs, cigarette smoking, adherence to antiretroviral medications, types of sexual intercourse, condom use, and disclosure of HIV status to partners.

CDC anticipates that 450 new HOPS study participants will be recruited annually into HOPS from a pool of patients with HIV currently in HIV-care at the eight aforementioned clinics (50–60 patients per site). Patients are approached during one of their routine clinic visits to participate in HOPS. Patients interested in participating in HOPS are given detailed information about the nature of the study and provided with written informed consent that must be completed prior to enrollment. The 450 newly enrolled participants each year will be added to the database of existing participants such that approximately 2,700 participants will be seen in the HOPS each year. Medical record abstractions will be completed on all HOPS participants and impose no direct burden on HOPS study participants.

Participation of respondents is voluntary. CDC request OMB approval for an estimated 428 annual burden hours. There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)	Total burden (in hr)
HOPS Study Patients	Behavioral survey	2,700	1	7/60	315
HOPS Study Patients	Consent form	450	1	15/60	113
Total					428

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2023–03322 Filed 2–16–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–23–23CO; Docket No. CDC–2023–0011]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled the National Center for Health Statistics (NCHS) Rapid Surveys System (RSS). The RSS is a new survey system being designed to complement the current household survey systems at NCHS. The RSS will use survey data from probability-based online panels to produce time-sensitive estimates of new and emerging public health topics, attitudes, and behaviors.

DATES: CDC must receive written comments on or before April 18, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2023–0011 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

National Center for Health Statistics (NCHS) Rapid Surveys System (RSS)—New—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C.), as amended, authorizes that the Secretary of Health and Human Services (HHS), acting through NCHS, collect data about

the health of the population of the United States. The NCHS Rapid Surveys System (RSS) will collect data on emerging public health topics, attitudes, and behaviors using cross-sectional samples from two commercially available, national probability-based online panels. The RSS will then combine these data to form estimates that approximate national representation in ways that many data collection approaches cannot. The RSS is intended to collect data in contexts in which decision makers' need for time-sensitive data of known quality about emerging and priority health concerns is a higher priority than their need for statistically unbiased estimates.

The RSS will complement NCHS's current household survey systems. As quicker turnaround surveys that require less accuracy and precision than CDC's more rigorous population representative surveys, the RSS will incorporate multiple mechanisms to carefully evaluate the resulting survey data for its appropriateness for use in public health surveillance and research (*e.g.,* hypothesis generating) and facilitate continuous quality improvement by supplementing these panels with intensive efforts to understand how well the estimates reflect populations at most risk. The RSS data dissemination strategy will communicate the strengths and limitations of data collected through online probability panels as compared to more robust data collection methods.

The RSS has three major goals: (1) to provide CDC and other partners with time-sensitive data of known quality about emerging and priority health concerns; (2) to use these data collections to continue NCHS's evaluation of the quality of public health estimates generated from commercial online panels; and (3) to improve methods to communicate the appropriateness of public health estimates generated from commercial online panels.

Each round's questionnaire will consist of four main components: (1) basic demographic information on respondents to be used as covariates in analyses; (2) new, emerging, or supplemental content proposed by NCHS, other CDC Centers, Institute, and Offices, and other HHS agencies; (3) questions used for calibrating the survey weights; and (4) additional content selected by NCHS to evaluate against relevant benchmarks. NCHS will use questions from components (1) and (2) to provide relevant, timely data on new, emerging, and priority health topics to be used for decision making. NCHS will use questions from components (3) and (4) to weight and evaluate the quality of the estimates coming from questions in component (1) and (2). Components (1) and (2) will contain different topics in each round of the survey.

The RSS is designed to have four rounds of data collection each year with two contractors. A cross-sectional nationally representative sample will be drawn from the online probability panel maintained by each of the contractors. A separate 30-day OMB package and **Federal Register** notice with the draft data collection instrument will be submitted for each round of data collection. As part of the base (minimum sample size), each round of data collection will collect 2,000 responses per quarter. The RSS can be expanded by increasing the number of completed responses per round and/or the number of rounds per year as needed up to a maximum of 28,000 responses per year per contractor or 56,000 total responses per year. Additionally, each data collection may include up to 2,000 additional responses per quarter (8,000 for the year) to improve representativeness. This increases the maximum burden by up to 16,000 responses per year. The RSS may also target individual surveys to collect data only from specific subgroups within existing survey panels and may supplement data collection for such groups with additional respondents from other probability or nonprobability samples. An additional 12,000 responses per year may be used for these developmental activities. Survey questions being asked of the panelists will be cognitively tested. This cognitive testing will help survey users interpret the findings by understanding how respondents answer each question.

CDC requests OMB approval for an estimated 28,080 burden hours annually over the course of the three-year approval. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of survey	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Base Surveys	16,000	1	20/60	5,333
Potential Sample Expansion	40,000	1	20/60	13,334
Additional Surveys to Increase Representativeness	16,000	1	20/60	5,333
Developmental: Additional Surveys for Specific Subgroups	12,000	1	20/60	4,000
Cognitive Interviews	80	1	1	80
Total				28,080

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2023–03319 Filed 2–16–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–23–0920; Docket No. CDC–2023–0009]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Data Collection Through Web Based Surveys for Evaluating Act Against AIDS Social Marketing Campaign Phases Targeting Consumers. This project which includes web surveys to test campaign messaging.

DATES: CDC must receive written comments on or before April 18, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2023–0009 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7118; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

Data Collection Through Web Based Surveys for Evaluating Act Against AIDS Social Marketing Campaign Phases Targeting Consumers (OMB Control No. 0920–0920, Exp. 5/31/2023)—Extension—National Center for HIV/AIDS, Viral Hepatitis, STD and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

In response to the continued HIV epidemic in our country, CDC launched the Let's Stop HIV Together campaign (formerly known as Act Against AIDS), a multifaceted communication campaign to reduce HIV incidence in the United States in 2009. CDC has released the campaign in phases, with some of the phases running concurrently. Each phase of the campaign uses mass media and direct-to-consumer channels to deliver messages. Some campaigns provide basic education and increase awareness of HIV/AIDS among the general public whereas others emphasize HIV prevention and testing among specific subgroups or communities at greatest risk of infection. CDC will also develop new messages to address changes in prevention science and subpopulations affected by HIV. The proposed study will assess the effectiveness of these social marketing messages aimed at increasing HIV/AIDS awareness, increasing prevention behaviors, and improving HIV testing rates among consumers.

This Extension of an ongoing study will allow for continued evaluation of the effectiveness of Let's Stop HIV Together social marketing campaign through surveys with consumers. A total of 6,445 respondents were approved for the previously renewed Generic ICR (0920–0920) in 2022, and since the approval date, 2,500 respondents were surveyed under the GenIC, ''Development of Messages for the Let's Stop HIV Together National Campaign''. The information collected from this survey was used to evaluate the acceptability and potential effectiveness of proposed concepts, messages, and taglines for a component of the Let's Stop HIV Together campaign focused on HIV prevention that promotes proven, effective prevention strategies, such as pre-exposure prophylaxis (PrEP) and treatment as prevention (TasP). We are requesting a three-year Extension to continue surveying target audiences.

Through this Extension, we plan to reach the remaining approved 3,945 respondents. To obtain the remaining respondents, we anticipate screening approximately 26,336 individuals. Depending on the target audience for the campaign phase, the study screener will vary. The study screener may address one or more of the following items: Race/ethnicity, sexual behavior, sexual orientation, gender identity, HIV testing history, HIV status, and injection drug use. Each survey will have a core set of items asked in all rounds, as well as a module of questions relating to specific Let's Stop HIV Together phases and activities.

Respondents will be recruited through national opt-in email lists, the internet, and external partnerships with community-based and membership organizations that work with or represent individuals from targeted populations (*e.g.,* National Urban League, the National Medical Association). Respondents will self-administer the survey at home on

personal computers. CDC requests OMB approval for an estimated 2,849 annual burden hours. There is no cost to the respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hr)	Total burden (in hr)
Individuals (male and female) aged 18 years and older ...	Study Screener ...	26,336	1	2/60	877
	Survey Module	3,945	1	30/60	1,972
Total	.....	.....	.....	.....	2,849

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2023–03320 Filed 2–16–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–367a–e]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by April 18, 2023.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address:

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: ____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–367a–e Medicaid Drug Rebate Program Labeler Reporting Format

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicaid Drug Rebate Program Labeler Reporting Format; *Use:* Labelers transmit drug product and pricing data to CMS within 30 days after the end of each calendar month and quarter. CMS calculates the unit rebate amount (URA) and the unit rebate offset amount (UROA) for each new drug application (NDC) and distributes to all State Medicaid agencies. States use the URA to invoice the labeler for rebates and the UROA to report onto CMS–64. The monthly data is used to calculate Federal Upper Limit (FUL) prices for applicable drugs and for states that opt to use this data to establish their pharmacy reimbursement methodology. In this 2023 iteration, we adding a new use of the reported data. The new use would allow us to calculate inflationary rebates under the Inflation Reduction Act of 2022. The change has no impact on our burden estimates. We are not revising any of our reporting forms. *Form Number:* CMS–367a, b, c, d, and e (OMB control number: 0938–0578); *Frequency:* Monthly, quarterly, and on occasion; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 818; *Total Annual Responses:* 15,742; *Total Annual Hours:*

591,042. (For policy questions regarding this collection contact Andrea Wellington at 410–786–3490.)

Dated: February 14, 2023.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2023–03398 Filed 2–16–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–0248]

Anesthetic and Analgesic Drug Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Anesthetic and Analgesic Drug Products Advisory Committee. The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held virtually on April 19, 2023, from 9 a.m. to 5:30 p.m. Eastern Time.

ADDRESSES: Please note that due to the impact of the COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings, including information regarding special accommodations due to a disability, may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2023–N–0248. Please note that late, untimely filed comments will not be considered. The docket will close on April 18, 2023. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of April 18, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before April 6, 2023, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is canceled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments 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–2023–N–0248 for ''Anesthetic and Analgesic Drug Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see ADDRESSES), 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.'' FDA 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 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 the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Rhea Bhatt, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–708–1707, email: *AADPAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last-minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly

enough to provide timely notice. Therefore, you should always check FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before the meeting.

SUPPLEMENTARY INFORMATION: *Agenda:* The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. The committee will discuss postmarketing requirement 3033–11, issued to application holders of new drug applications (NDAs) for extended-release and long-acting opioid analgesics to evaluate long-term efficacy of opioid analgesics and the risk of opioid-induced hyperalgesia. The discussion will focus on a clinical trial designed to address these objectives.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions to the Docket (see **ADDRESSES**) on or before April 6, 2023, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before March 28, 2023. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 29, 2023.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Rhea Bhatt (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–03370 Filed 2–16–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–P–2517]

Determination That MIACALCIN (Calcitonin Salmon) Injection, 100 USP Units/Milliliter (mL), Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) has determined that MIACALCIN (calcitonin salmon) injection, 100 USP Units/milliliter (mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDAs) for calcitonin salmon injection, 100 USP Units/mL, if all other legal and regulatory requirements are met.

FOR FURTHER INFORMATION CONTACT: Donna Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6213, Silver Spring, MD 20993–0002, 301–796–3600, *Donna.Tran@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

MIACALCIN (calcitonin salmon) injection, 100 USP Units/mL, is the subject of NDA 017808, held by Mylan Ireland Ltd., and initially approved on July 3, 1986. MIACALCIN is indicated for: (1) the treatment of symptomatic Paget's disease of bone in patients with moderate to severe disease characterized by polyostotic involvement with elevated serum alkaline phosphatase and urinary hydroxyproline excretion; (2) early treatment of hypercalcemic emergencies, along with other appropriate agents, when a rapid decrease in serum calcium is required, until more specific treatment of the underlying disease can be

accomplished; and (3) treatment of postmenopausal osteoporosis in women greater than 5 years postmenopause.

MIACALCIN (calcitonin salmon) injection, 100 USP Units/mL, is currently listed in the ''Discontinued Drug Product List'' section of the Orange Book.

Maiva Pharma Private Ltd. submitted a citizen petition dated October 12, 2022 (Docket No. FDA–2022–P–2517), under 21 CFR 10.30, requesting that the Agency determine whether MIACALCIN (calcitonin salmon) injection, 100 USP Units/mL, was voluntarily withdrawn for reasons other than safety or efficacy.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that MIACALCIN (calcitonin salmon) injection, 100 USP Units/mL, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that MIACALCIN (calcitonin salmon) injection, 100 USP Units/mL, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of MIACALCIN (calcitonin salmon) injection, 100 USP Units/mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list MIACALCIN (calcitonin salmon) injection, 100 USP Units/mL, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDAs that refer to MIACALCIN (calcitonin salmon) injection, 100 USP Units/mL, may be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: February 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–03389 Filed 2–16–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–2391]

Miles Laboratories Inc.; Withdrawal of Approval of an Abbreviated New Drug Application for Alcohol and Dextrose Injection; 5 Milliliters/100 Milliliters, 5 Grams/100 Milliliters

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of an abbreviated new drug application (ANDA) for Alcohol and Dextrose Injection, 5 milliliters (mL)/100 mL, 5 grams (g)/100 mL. The bases for the withdrawal are that the ANDA holder has repeatedly failed to file required annual reports for this ANDA and that the Agency has scientific data and experience to show that the drug product under this ANDA is unsafe for use under the conditions of use for which the product was approved.

DATES: Approval is withdrawn as of February 17, 2023.

FOR FURTHER INFORMATION CONTACT: Kaetochi Okemgbo, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6224, Silver Spring, MD 20993–0002, 301–796–1546, *Kaetochi.Okemgbo@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The holder of an approved ANDA to market a new drug for human use is required to submit annual reports to FDA concerning its approved ANDA under §§ 314.81 and 314.98 (21 CFR 314.81 and 314.98). Additionally, under 21 CFR 314.161, FDA previously determined that Alcohol and Dextrose Injection, 5 mL/100 mL, 5 g/100 mL, approved under ANDA 083483 was withdrawn from sale for safety and effectiveness reasons (see 86 FR 72606, December 22, 2021) (this determination also applied to other applications and to the 10 mL/100 mL, 5 g/100 mL strength of Alcohol and Dextrose Injection approved under new drug application (NDA) 004589). As explained in our **Federal Register** notice determining that Alcohol and Dextrose was withdrawn from sale for safety and effectiveness reasons, Alcohol and Dextrose Injection is indicated to provide increased caloric intake. The use of Alcohol and Dextrose raises several safety concerns because there are many risks associated with the exposure to alcohol. Alcohol is contraindicated for use in patients with neurologic disorders, such as seizures, who have current or past substance abuse problems, or who are pregnant. It can cause intoxication, respiratory depression, and disturbances in serum glucose levels. FDA-approved alternatives for intravenous calorie supplementation that do not include alcohol were approved after these Alcohol and Dextrose products and are available today.

In the **Federal Register** of October 24, 2022 (87 FR 64227), FDA published a notice of opportunity for a hearing (NOOH) on a proposal to withdraw approval of ANDA 083483, held by Miles Laboratories Inc., the last holder of record, under § 314.150(b)(1) (21 CFR 314.150(b)(1)) because the ANDA holder has repeatedly failed to submit the required annual reports and under § 314.150(a)(2)(i) because the Agency has scientific data and experience to show that the drug product approved under ANDA 083483, Alcohol and Dextrose Injection, 5 mL/100 mL, 5 g/100 mL, is unsafe for use under the conditions of use for which the product was approved. The ANDA holder did not respond to the NOOH. Failure to file a written notice of participation and request for hearing as required by § 314.200 (21 CFR 314.200) constitutes a waiver of the opportunity for a hearing by the ANDA holder concerning the proposal to withdraw approval of the ANDA and a waiver of any contentions concerning the legal status of the drug product. Accordingly, FDA is withdrawing approval of ANDA 083483.

Therefore, for reasons discussed above, FDA finds that: (1) the ANDA holder has failed to submit reports required under §§ 314.81 and 314.98 and section 505(k) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(k)) and (2) the Agency has scientific data and experience to show that the drug product approved under ANDA 083483, Alcohol and Dextrose Injection, 5 mL/100 mL, 5 g/100 mL, is unsafe for use under the conditions of use for which the product was approved. In addition, under § 314.200, FDA finds that the ANDA holder has waived its opportunity for a hearing and any contentions concerning the legal status of the drug products. Therefore, based on these findings and pursuant to the authority under section 505(e) of the FD&C Act, approval of ANDA 083483 and all amendments and supplements thereto is hereby withdrawn as of February 17, 2023.

Dated: February 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–03367 Filed 2–16–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–P–2842]

Determination That Dihydroergotamine Mesylate 45 Injection USP, 1 Milligram/Milliliter, Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 milligram (mg)/milliliter (mL), was not withdrawn from sale for reasons of safety or effectiveness. This determination means that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to this drug product, and it will allow FDA to continue to approve ANDAs that refer to the product as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT: Donna Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6213, Silver Spring, MD 20993–0002, 301–796–3600, *Donna.Tran@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 355(j)) allows the submission of an ANDA to market a generic version of a previously approved drug product. To obtain approval, the ANDA applicant must show, among other things, that the generic drug product: (1) has the same active ingredient(s), dosage form, route of administration, strength, conditions of use, and (with certain exceptions) labeling as the listed drug, which is a version of the drug that was previously approved, and (2) is bioequivalent to the listed drug. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

Section 505(j)(7) of the FD&C Act requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products With Therapeutic Equivalence Evaluations,'' which is known generally as the ''Orange Book.'' Under FDA regulations, drugs are removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

A person may petition the Agency to determine, or the Agency may determine on its own initiative, whether a listed drug was withdrawn from sale for reasons of safety or effectiveness. This determination may be made at any time after the drug has been withdrawn from sale, but must be made prior to approving an ANDA that refers to the listed drug (§ 314.161 (21 CFR 314.161)). FDA may not approve an ANDA that does not refer to a listed drug.

D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, is the subject of NDA 005929, held by Bausch Health US, LLC, and initially approved on April 12, 1946. D.H.E. 45 (dihydroergotamine mesylate) is indicated for the acute treatment of migraine headaches with or without aura and the acute treatment of cluster headache episodes.

In a letter dated June 13, 2022, Bausch Health US, LLC notified FDA that D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, was being discontinued, and FDA moved the drug product to the ''Discontinued Drug Product List'' section of the Orange Book.

Baxter Healthcare Corporation submitted a citizen petition dated November 11, 2022 (Docket No. FDA–2022–P–2842), under 21 CFR 10.30, requesting that the Agency determine whether D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, was withdrawn from sale for reasons of safety or effectiveness.

After considering the citizen petition and reviewing Agency records and based on the information we have at this time, FDA has determined under § 314.161 that D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, was not withdrawn for reasons of safety or effectiveness. The petitioner has identified no data or other information suggesting that D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, was withdrawn for reasons of safety or effectiveness. We have carefully reviewed our files for records concerning the withdrawal of D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, from sale. We have also independently evaluated relevant literature and data for possible postmarketing adverse events. We have found no information that would indicate that this drug product was withdrawn from sale for reasons of safety or effectiveness.

Accordingly, the Agency will continue to list D.H.E. 45 (dihydroergotamine mesylate) injection USP, 1 mg/mL, in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. FDA will not begin procedures to withdraw approval of approved ANDAs that refer to this drug product. Additional ANDAs for this drug product may also be approved by the Agency as long as they meet all other legal and regulatory requirements for the approval of ANDAs. If FDA determines that labeling for this drug product should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: February 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–03381 Filed 2–16–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–0438]

International Drug Scheduling; Convention on Psychotropic Substances; Single Convention on Narcotic Drugs; World Health Organization; Scheduling Recommendations; ADB-BUTINACA; Alpha-PiHP; 3-Methylmethcathinone; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing interested persons with the opportunity to submit written comments concerning recommendations by the World Health Organization (WHO) to impose international manufacturing and distributing restrictions, under international treaties, on certain drug substances. The comments received in response to this notice will be considered in preparing the United States' position on these proposals for a meeting of the United Nations

Commission on Narcotic Drugs (CND) in Vienna, Austria, in March 2023. This notice is issued under the Controlled Substances Act (CSA).

DATES: Submit either electronic or written comments by February 28, 2023.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of February 28, 2023. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

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–2023–N–0438 for ''International Drug Scheduling; Convention on Psychotropic Substances; Single Convention on Narcotic Drugs; World Health Organization; Scheduling Recommendations; ADB-BUTINACA; alpha-PiHP; 3-Methylmethcathinone; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Edward (Greg) Hawkins, Center for Drug Evaluation and Research, Controlled Substance Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 5150, Silver Spring, MD 20993–0002, 202–713–8981, *Edward.Hawkins@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The United States is a party to the 1971 Convention on Psychotropic Substances (1971 Convention). Section 201(d)(2)(B) of the CSA (21 U.S.C. 811(d)(2)(B)) provides that when the United States is notified under Article 2 of the 1971 Convention that the CND proposes to decide whether to add a drug or other substance to one of the schedules of the 1971 Convention, transfer a drug or substance from one schedule to another, or delete it from the schedules, the Secretary of State must transmit notice of such information to the Secretary of Health and Human Services (Secretary of HHS). The Secretary of HHS must then publish a summary of such information in the **Federal Register** and provide opportunity for interested persons to submit comments. The Secretary of HHS must then evaluate the proposal and furnish a recommendation to the Secretary of State that shall be binding on the representative of the United States in discussions and negotiations relating to the proposal.

As detailed in the following paragraphs, the Secretary of State has received notification from the Secretary-General of the United Nations (the Secretary-General) regarding three substances to be considered for control under the 1971 Convention. This notification reflects the recommendation from the 45th WHO Expert Committee for Drug Dependence (ECDD), which met in October 2022. In the **Federal Register** of August 3, 2022 (87 FR 47428), FDA announced the WHO ECDD review and invited interested persons to submit information for WHO's consideration.

The full text of the notification from the Secretary-General is provided in section II of this document. Section 201(d)(2)(B) of the CSA requires the Secretary of HHS, after receiving a notification proposing scheduling, to publish a notice in the **Federal Register** to provide the opportunity for interested persons to submit information and comments on the proposed scheduling action.

The United States is also a party to the 1961 Single Convention on Narcotic Drugs (1961 Convention). The Secretary of State has received a notification from the Secretary-General regarding four substances to be considered for control under this convention. The CSA does not require HHS to publish a summary

of such information in the **Federal Register**. Nevertheless, to provide interested and affected persons an opportunity to submit comments regarding the WHO recommendations for drugs under the 1961 Convention, the notification regarding these substances is also included in this **Federal Register** notice. The comments will be shared with other relevant Agencies to assist the Secretary of State in formulating the position of the United States on the control of these substances. The HHS recommendations are not binding on the representative of the United States in discussions and negotiations relating to the proposal regarding control of substances under the 1961 Convention.

II. United Nations Notification

The formal notification from the United Nations that identifies the drug substances and explains the basis for the scheduling recommendations is reproduced as follows (non-relevant text removed):

Reference:
NAR/CL.6/2022
WHO/ECDD45; 1961C-Art.3, 1971C-Art.2
CU 2022/386/DTA/SGB

The Secretariat of the United Nations presents its compliments to the Permanent Mission of the United States of America to the United Nations (Vienna) and has the honour to inform the Mission that, in a letter dated 24 November 2022, the Director-General of the World Health Organization (WHO), pursuant to article 3, paragraphs 1 and 3 of the Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol (1961 Convention), and article 2, paragraphs 1 and 4 of the Convention on Psychotropic Substances of 1971 (1971 Convention), notified the Secretary-General of the following recommendations of the Forty-fifth Meeting of the WHO's Expert Committee on Drug Dependence (ECDD):

Substances recommended to be added to Schedule I of the 1961 Convention:

—2-Methyl-AP-237
IUPAC (International Union of Pure and Applied Chemistry) name: 1-[2-Methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone
—Etazene
IUPAC name: 2-[(4-Ethoxyphenyl)methyl]-N,N-diethyl-1H-benzimidazole-1-ethanamine
—Etonitazepyne
IUPAC name: 2-[(4-Ethoxyphenyl)methyl]-5-nitro-1-(2-pyrrolidin-1-ylethyl)-1H-benzoimidazole
—Protonitazene
IUPAC name: N,N-Diethyl-5-nitro-2-[(4-propoxyphenyl)methyl]-1H-benzimidazole-1-ethanamine

Substance recommended to be added to Schedule II of the 1971 Convention:

—ADB-BUTINACA
IUPAC name: N-[1-(Aminocarbonyl)-2,2-dimethylpropyl]-1-butyl-1H-indazole-3-carboxamide
—alpha-PiHP
IUPAC name: 4-Methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one
—3-Methylmethcathinone
IUPAC name: 2-(Methylamino)-1-(3-methylphenyl)propan-1-one

Substances to be kept under surveillance:

In the letter from the Director-General of WHO to the Secretary-General, reference is also made to the recommendation made by the WHO Expert Committee on Drug Dependence (ECDD), at its forty-fifth meeting, to keep the following substances under surveillance:

—Adinazolam
IUPAC name: 8-Chloro-N,N-dimethyl-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine-1-methanamine
—Bromazolam
IUPAC name: 8-Bromo-1-methyl-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine
—Zopiclone
IUPAC name: 6-(5-Chloropyridin-2-yl)-7-oxo-6,7-dihydro-5H-pyrrolo[3,4-b]pyrazin-5-yl 4-methylpiperazine-1-Carboxylate

In accordance with the provisions of article 3, paragraph 2, of the 1961 Convention and article 2, paragraph 2, of the 1971 Convention, the notification is hereby transmitted as Annex I to the present note. In connection with the notification, WHO also submitted a summary of the assessments and findings for these recommendations made by ECDD in Annex 1 to the letter to the Secretary-General, which is transmitted herewith in Annex II.

Also, in accordance with the same provisions, the notification from WHO will be brought to the attention of the sixty-sixth session of the Commission on Narcotic Drugs (13–17 March 2023) in a pre-session document that will be made available in the six official languages of the United Nations on the website of the 66th session of the Commission on Narcotic Drugs: *https://www.unodc.org/unodc/en/commissions/CND/session/66_Session_2023/66CND_Main.html.*

In order to assist the Commission in reaching a decision, it would be appreciated if the Mission could communicate any comments it considers relevant to the possible scheduling of substances recommended by WHO to be placed under international control under the 1961 Convention, namely:

—2-Methyl-AP-237
—Etazene
—Etonitazepyne
—Protonitazene;

as well as any economic, social, legal, administrative, or other factors that it considers relevant to the possible scheduling of substances recommended by WHO to be placed under international control under the 1971 Convention, namely:

—ADB-BUTINACA
—alpha-PiHP
—3-Methylmethcathinone

The Secretariat of the United Nations avails itself of this opportunity to renew to the Permanent Mission of the United States of America to the United Nations (Vienna) the assurances of its highest consideration.

Annex I

Letter addressed to the Secretary-General of the United Nations from the Director-General of the World Health Organization, dated 24 November 2022:

''I have the honour to refer to the Forty-fifth Meeting of the World Health Organization (WHO) Expert Committee on Drug Dependence (ECDD) that was convened in Geneva, Switzerland from 10 to 13 October 2022.

WHO is mandated by the 1961 and 1971 International Drug Control Conventions to make recommendations to the United Nations Secretary-General on the need for a level of international control of psychoactive substances based on the advice of its independent scientific advisory body, the ECDD. To assess the appropriate control of a psychoactive substance, WHO convenes ECDD annually to review the potential of a substance to cause dependence, abuse and harm to health, as well as any therapeutic applications.

The Forty-fifth WHO ECDD Meeting critically reviewed nine new psychoactive substances: one synthetic cannabinoid receptor agonist (ADB-BUTINACA), four novel synthetic opioids (2-Methyl-AP-237, etazene, etonitazepyne, and protonitazene), two cathinones/stimulants (alpha-PiHP, 3-methylmethcathinone), and two benzodiazepines (adinozolam, bromazolam). These substances had not previously been formally reviewed by WHO and are currently not under international control.

Information was brought to WHO's attention that these substances are clandestinely manufactured, of risk to public health and society, and of no recognized therapeutic use by any party. Therefore, a critical review to consider international scheduling measures was undertaken for each substance so that the Expert Committee could consider whether information about these substances may justify the scheduling of a substance in the 1961 or 1971 Conventions. In addition, the Forty-fifth ECDD carried out a pre-review of zopiclone to consider whether current information justified a critical review.

With reference to Article 3, paragraphs 1 and 3 of the Single Convention on Narcotic Drugs (1961), as amended by the 1972 Protocol, and Article 2, paragraphs 1 and 4 of the Convention on Psychotropic Substances (1971), WHO is pleased to endorse and submit the following recommendations of the Forty-fifth Meeting of the ECDD:

To be added to Schedule I of the Single Convention on Narcotic Drugs (1961):

—2-Methyl-AP-237
IUPAC (International Union of Pure and Applied Chemistry) name: 1-[2-Methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone
—Etazene
IUPAC name: 2-[(4-Ethoxyphenyl)methyl]-N,N-diethyl-1H-benzimidazole-1-ethanamine
—Etonitazepyne

IUPAC name: 2-[(4-Ethoxyphenyl)methyl]-5-nitro-1-(2-pyrrolidin-1-ylethyl)-1H-benzoimidazole

—Protonitazene

IUPAC name: N,N-Diethyl-5-nitro-2-[(4-propoxyphenyl)methyl]-1H-benzimidazole-1-ethanamine

To be added to Schedule II of the Convention on Psychotropic Substances (1971):

—ADB-BUTINACA

IUPAC name: N-[1-(Aminocarbonyl)-2,2-dimethylpropyl]-1-butyl-1H-indazole-3-carboxamide

—alpha-PiHP

IUPAC name: 4-Methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one

—3-Methylmethcathinone

IUPAC name: 2-(Methylamino)-1-(3-methylphenyl)propan-1-one

To be kept under surveillance:

—Adinazolam

IUPAC name: 8-Chloro-N,N-dimethyl-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine-1-methanamine

—Bromazolam

IUPAC name: 8-Bromo-1-methyl-6-phenyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine

—Zopiclone

IUPAC name: 6-(5-Chloropyridin-2-yl)-7-oxo-6,7-dihydro-5H-pyrrolo[3,4-b]pyrazin-5-yl 4-methylpiperazine-1-Carboxylate

The assessments and findings on which these recommendations are based are set out in detail in the Forty-fifth Meeting report of the WHO Expert Committee on Drug Dependence. A summary of the assessment and recommendations made by the ECDD is contained in Annex 1 to this letter.

I am pleased with the ongoing collaboration between WHO, the United Nations Office on Drugs and Crime, and the International Narcotics Control Board, and in particular, how this collaboration has benefited the work of the WHO Expert Committee on Drug Dependence and more generally, the implementation of the operational recommendations of the United Nations General Assembly Special Session 2016.''

Annex II

45th WHO ECDD Summary Assessments, Findings and Recommendations, 10–13 October 2022

Substances to be added to Schedule I of the Single Convention on Narcotic Drugs (1961).

2-Methyl-AP-237

Substance Identification

2-Methyl-AP-237 (*IUPAC chemical name:* 1-[2-Methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone) is a methyl derivative of the opioid analgesic AP-237 (or bucinnazine). 2-Methyl-AP-237 has been described as a white crystalline powder, a crystalline solid, and a white solid.

WHO Review History

2-Methyl-AP-237 has been under WHO surveillance but has not been formally reviewed by WHO, and is not currently under international control. Information was brought to the attention of WHO that this substance is manufactured clandestinely, poses a risk to public health and has no recognized therapeutic use.

Similarity to Known Substances and Effects on the Central Nervous System

2-Methyl-AP-237 is an opioid analgesic with a rapid onset of action and a potency and analgesic effects similar to those of fentanyl, which is listed under Schedule I of the Single Convention on Narcotic Drugs, 1961. In animals, it produces acute toxic effects typical of opioids, including respiratory depression. Limited research has been reported on the effects of 2-methyl-AP-237 in humans, although its respiratory depressant effects have been observed, which can be reversed by the opioid antagonist, naloxone.

Dependence Potential

No controlled studies of the dependence potential of 2-methyl-AP-237 have been reported in animals or humans. As it is a μ-opioid receptor agonist, it would be expected to produce dependence similar to that induced by other opioids, such as morphine and fentanyl. Online self-reports described tolerance and withdrawal.

Actual Abuse and/or Evidence of Likelihood of Abuse

In an animal model predictive of abuse potential, 2-methyl-AP-237 was shown to produce opioid-like effects with a potency between those of morphine and fentanyl. These effects were blocked by the opioid antagonist, naltrexone.

No controlled studies on the abuse potential of 2-methyl-AP-237 in humans have been reported, but, as it is a μ-opioid receptor agonist, it would be expected to produce euphoria and other effects predictive of high abuse liability. Online self-reports support its euphoric and other opioid effects.

Seizures of 2-methyl-AP-237 have been reported in multiple countries in two regions. A number of deaths in which 2-methyl-AP-237 has been found have been reported, often with multiple substances involved. The deaths occurred in a number of countries and regions.

Therapeutic Usefulness

2-Methyl-AP-237 is not known to have any therapeutic use.

Recommendation

2-Methyl-AP-237 (*IUPAC chemical name:* 1-[2-Methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone) is a synthetic opioid that is liable to abuse and to have ill effects similar to those of other opioids that are controlled under Schedule I of the 1961 Single Convention on Narcotic Drugs. Its use has been reported in a number of countries and has been associated with adverse effects, including death. It has no known therapeutic use and is likely to cause substantial harm.

Recommendation: The Committee recommended that 2-methyl-AP-237 (IUPAC chemical name: 1-[2-Methyl-4-(3-phenyl-2-propen-1-yl)-1-piperazinyl]-1-butanone) be added to Schedule I of the 1961 Single Convention on Narcotic Drugs.

Etazene

Substance Identification

Etazene (*IUPAC chemical name:* 2-[(4-ethoxyphenyl)methyl]-*N,N*-diethyl-1*H*-benzimidazole-1-ethanamine), also known as etodesnitazene, is a benzimidazole-derived synthetic opioid. Etazene has been described as a grey crystalline, light-yellow, white, or beige powder. It has also been identified in liquid form and in falsified pharmaceutical opioids.

WHO Review History

Etazene has not been formally reviewed by WHO and is not currently under international control. Information was brought to the attention of WHO that this substance is manufactured clandestinely, poses a risk to public health and has no recognized therapeutic use.

Similarity to Known Substances and Effects on the Central Nervous System

Etazene binds to the μ-opioid receptor with a potency greater than that of morphine. In studies of analgesia in animals, etazene had full agonist effects, with a potency between those of morphine and fentanyl, which are both controlled under Schedule I of the Single Convention on Narcotic Drugs, 1961. The effects of etazene are reversed by the opioid antagonist, naltrexone.

Dependence Potential

No controlled studies of the dependence potential of etazene in animals or in humans have been reported. As it is a potent μ-opioid receptor agonist, it would be expected to produce dependence similar to other opioids, such as morphine and fentanyl. Online self-reports described tolerance with repeated use of etazene.

Actual Abuse and/or Evidence of Likelihood of Abuse

In an animal model predictive of abuse potential, etazene had effects similar to those of morphine. No controlled studies have been conducted of the abuse potential of etazene in humans, but, as it is a potent μ-opioid receptor agonist, it would be expected to produce euphoria and other effects predictive of high abuse liability. Online self-reports support its euphoric and other opioid effects.

Seizures of etazene have been reported in multiple countries in two regions.

A number of deaths have occurred in which the presence of etazene was confirmed analytically and in which it was considered to have contributed to death, although other substances were also identified in these cases.

Therapeutic Usefulness

Etazene is not known to have any therapeutic use.

Recommendation

Etazene (*IUPAC chemical name:* 2-[(4-ethoxyphenyl)methyl]-*N,N*-diethyl-1*H*-benzimidazole-1-ethanamine), also known as etodesnitazene, is a synthetic opioid that is liable to abuse and produces ill effects similar to other opioids that are controlled under Schedule I of the 1961 Single Convention on Narcotic Drugs. Its use has been reported in a number of countries and

has been associated with adverse effects, including death. It has no known therapeutic use and poses a significant risk to public health.

Recommendation: The Committee recommended that etazene (IUPAC chemical name: 2-[(4-ethoxyphenyl)methyl]-*N*,*N*-diethyl-1*H*-benzimidazole-1-ethanamine), also known as etodesnitazene, be added to Schedule I of the 1961 Single Convention on Narcotic Drugs.

Etonitazepyne

Substance Identification

Etonitazepyne (*IUPAC chemical name:* 2-[(4-ethoxyphenyl)methyl]-5-nitro-1-(2-pyrrolidin-1-ylethyl)-1H-benzoimidazole), also known as *N*-pyrrolidino etonitazene, is a benzimidazole-derived synthetic opioid. Etonitazepyne is found as a yellow powder and crystalline solid and has been identified in falsified pharmaceutical opioid tablets.

WHO Review History

Etonitazepyne has not been formally reviewed by WHO and is not currently under international control. Information was brought to the attention of WHO that this substance is manufactured clandestinely, poses a risk to public health, and has no recognized therapeutic use.

Similarity to Known Substances and Effects on the Central Nervous System

Studies in animals have demonstrated that etonitazepyne is a potent, full agonist at μ-opioid receptors. In animals, it produces effects similar to those of opioids such as morphine, fentanyl, and isotonitazene but with greater potency. There is limited information about the effects of etonitazepyne alone in humans.

Dependence Potential

No controlled studies of the dependence potential of etonitazepyne in animals or humans have been reported. As it is a potent μ-opioid receptor agonist, it would be expected to produce dependence similarly to other opioids, such as morphine and fentanyl. Online self-reports describe tolerance and withdrawal after repeated etonitazepyne use.

Actual Abuse and/or Evidence of Likelihood of Abuse

In an animal model predictive of abuse potential, etonitazepyne was shown to produce effects that indicated greater potency compared to morphine and fentanyl, and these effects were reversed by the opioid antagonist, naltrexone.

Seizures of etonitazepyne have been reported in multiple countries in two regions. It is reported to be administered by various routes, including snorting, sniffing, and oral administration. Etonitazepyne has been identified in falsified medicines, suggesting that its use may sometimes be unintentional.

Etonitazepyne is a relatively new drug on the illicit market, and there is limited information on the prevalence of its use and of its harm, although non-fatal and fatal intoxications have been documented in a number of countries. The number of deaths involving etonitazepyne has increased over a relatively short time but may be underreported because of its recent, rapid appearance.

Therapeutic Usefulness

Etonitazepyne is not known to have any therapeutic use.

Recommendation

Etonitazepyne (*IUPAC chemical name:* 2-[(4-ethoxyphenyl)methyl]-5-nitro-1-(2-pyrrolidin-1-ylethyl)-1H-benzoimidazole), also known as *N*-pyrrolidino etonitazene, is a synthetic opioid that is liable to abuse and to produce ill effects similar to other opioids that are controlled under Schedule I of the 1961 Single Convention on Narcotic Drugs. Its use has been reported in a number of countries and has been associated with adverse effects, including death. It has no known therapeutic use and poses a significant risk to public health.

Recommendation: The Committee recommended that etonitazepyne (IUPAC chemical name: 2-[(4-ethoxyphenyl)methyl]-5-nitro-1-(2-pyrrolidin-1-ylethyl)-1H-benzoimidazole), also known as *N*-pyrrolidino etonitazene, be added to Schedule I of the 1961 Single Convention on Narcotic Drugs.

Protonitazene

Substance Identification

Protonitazene (*IUPAC chemical name: N,N*-Diethyl-5-nitro-2-[(4-propoxyphenyl)methyl]-1*H*-benzimidazole-1-ethanamine), also known as propoxynitazene, is a 5-nitro-2-benzylbenzimidazole synthetic opioid. Protonitazene has been described as a white, yellow, or brown powder and as a crystalline solid.

WHO Review History

Protonitazene has not been formally reviewed by WHO and is not currently under international control. Information was brought to the attention of WHO that this substance is manufactured clandestinely, poses a risk to public health and has no recognized therapeutic use.

Similarity to Known Substances and Effects on the Central Nervous System

Protonitazene is a chemical analogue of metonitazene and etonitazene, which are controlled under Schedule I of the Single Convention on Narcotic Drugs of 1961. Studies in animals have demonstrated that protonitazene is a full agonist at μ-opioid receptors, with greater potency than morphine and similar potency to fentanyl. Its effects are blocked by the opioid antagonist, naltrexone.

Dependence Potential

No controlled studies of the dependence potential of protonitazene in animals or humans have been reported. As it is a potent μ-opioid receptor agonist, it would be expected to produce dependence similar to other opioids such as morphine and fentanyl.

Actual Abuse and/or Evidence of Likelihood of Abuse

In animals, protonitazene showed potent opioid effects and abuse potential, similar to those of morphine and fentanyl. Its abuse potential has not been studied in humans; however, online self-reports indicate typical opioid effects, including sedation and euphoria.

Protonitazene is relatively new on the illicit drug market, and there is limited information on the prevalence of its use or of its harm. The only available information is that several fatalities have occurred in which the presence of protonitazene was confirmed, usually with other substances. The number of deaths may be underreported because of limitations in testing, including difficulty in differentiating this substance from isotonitazene.

Protonitazene is reported to be administered through various routes, including intranasally and intravenously.

Seizures of protonitazene have been reported in multiple countries in two regions.

Therapeutic Usefulness

Protonitazene is not known to have any therapeutic use.

Recommendation

Protonitazene (*IUPAC chemical name: N,N*-Diethyl-5-nitro-2-[(4-propoxyphenyl)methyl]-1*H*-benzimidazole-1-ethanamine), also known as propoxynitazene, is a synthetic opioid that is liable to abuse and to produce ill effects similar to other opioids that are controlled under Schedule I of the 1961 Single Convention on Narcotic Drugs. Its use has been reported in a number of countries and has been associated with adverse effects, including death. It has no known therapeutic use and is likely to cause substantial harm.

Recommendation: The Committee recommended that protonitazene (*IUPAC chemical name: N,N*-Diethyl-5-nitro-2-[(4-propoxyphenyl)methyl]-1*H*-benzimidazole-1-ethanamine), also known as propoxynitazene, be added to Schedule I of the 1961 Single Convention on Narcotic Drugs.

Substances to be added to Schedule II of the Convention on Psychotropic Substances (1971).

ADB-BUTINACA

Substance Identification

ADB-BUTINACA (*IUPAC chemical name: N*-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-butyl-1*H*-indazole-3-carboxamide) is an indazole-derived synthetic cannabinoid. It is described as a crystalline solid or a beige or yellowish powder and has also been found sprayed onto plant material and paper. It is commonly smoked or vaped, although isolated cases of oral use have also been reported.

WHO Review History

ADB-BUTINACA has not been formally reviewed by WHO and is not currently under international control. Information was brought to the attention of WHO that this substance is manufactured clandestinely, poses a risk to public health, and has no recognized therapeutic use.

Similarity to Known Substances and Effects on the Central Nervous System

ADB-BUTINACA is a synthetic cannabinoid that binds to CB1 and CB2 receptors with high affinity and is a potent

full agonist at both receptors. Its effects are similar to those of other potent CB1 agonists that are currently controlled under Schedule II of the Convention on Psychotropic Substances of 1971.

No controlled studies of the effects of ADB-BUTINACA have been reported. Online self-reports describe euphoria, appetite stimulation, sedation, and paranoia after its use. These effects are consistent with the known effects of cannabinoid agonists.

Dependence Potential

No controlled studies of the dependence potential of ADB-BUTINACA in animals or humans have been reported. However, its effects at the CB1 receptor suggest that it would be expected to produce dependence similar to other synthetic cannabinoids.

Actual Abuse and/or Evidence of Likelihood of Abuse

In an animal model predictive of abuse potential, ADB-BUTINACA had effects similar to the CB1 receptor agonist *delta*-9-tetrahydrocannabinol. No studies have been conducted to determine the likelihood of abuse of ADB-BUTINACA in humans; however, CB1 receptor agonists have known abuse potential.

A number of countries in various regions have reported use of ADB-BUTINACA and harm related to its use, including multiple deaths and presentations of patients to emergency departments with altered consciousness and loss of consciousness. Other substances were usually also involved in these cases, although a number of deaths involved only ADB-BUTINACA.

Therapeutic Usefulness

ADB-BUTINACA is not known to have any therapeutic use.

Recommendation

ADB-BUTINACA (*N*-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-butyl-1*H*-indazole-3-carboxamide) is a potent synthetic cannabinoid receptor agonist with a mechanism of action and effects similar to those of a number of other synthetic cannabinoids that are controlled under Schedule II of the Convention on Psychotropic Substances of 1971. Its mode of action suggests the likelihood of abuse and potential for dependence. Use of ADB-BUTINACA has been associated with severe adverse effects, including fatal intoxications. ADB-BUTINACA has no known therapeutic use.

Recommendation: The Committee recommended that ADB-BUTINACA (*N*-[1-(aminocarbonyl)-2,2-dimethylpropyl]-1-butyl-1*H*-indazole-3-carboxamide) be added to Schedule II of the Convention on Psychotropic Substances of 1971.

Alpha-PiHP

Substance Identification

Alpha-pyrrolidinoisohexanophenone (IUPAC chemical name: 4-Methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one), also known as *alpha*-PiHP, is a synthetic cathinone. It has been described as an off-white solid, a white powder, and a crystalline solid.

WHO Review History

Alpha-PiHP has been under WHO surveillance but has not been formally reviewed by WHO and is not currently under international control. Information was brought to the attention of WHO that this substance is manufactured clandestinely, poses a risk to public health, and has no recognized therapeutic use.

Similarity to Known Substances and Effects on the Central Nervous System

Alpha-PiHP is an isomer of *alpha*-PHP, which is controlled under Schedule II of the Convention on Psychotropic Substances of 1971. Laboratory studies suggest that *alpha*-PiHP can inhibit the uptake of dopamine and norepinephrine more potently than substances with known abuse potential, including methcathinone, cocaine, and methamphetamine. Studies in animals have shown that *alpha*-PiHP is a psychomotor stimulant, with effects comparable to those of cocaine and methamphetamine.

Online self-reports by people who use *alpha*-PiHP describe stimulant effects similar to those of *alpha*-PVP and *alpha*-PHP.

Dependence Potential

No controlled studies of the dependence potential of *alpha*-PiHP in animals or humans have been reported. In view of its actions and effects on the central nervous system, it would be expected to produce dependence similarly to other psychostimulants such as methamphetamine.

Actual Abuse and/or Evidence of Likelihood of Abuse

Studies in animals predictive of abuse liability indicate that *alpha*-PiHP produces effects similar to those of methamphetamine and cocaine. No controlled studies of the abuse potential of *alpha*-PiHP in humans have been reported.

Seizures of *alpha*-PiHP have been described in multiple countries in three regions.

Alpha-PiHP has been identified in a number of serious adverse events and drug-related deaths. As it is usually detected with other substances, including opioids and benzodiazepines, the role of *alpha*-PiHP is unclear in some instances.

Therapeutic Usefulness

Alpha-PiHP is not known to have any therapeutic use.

Recommendation

Alpha-pyrrolidinoisohexanophenone (*IUPAC chemical name:* 4-Methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one), also known as *alpha*-PiHP, is a synthetic cathinone with effects similar to those of other synthetic cathinones and other psychostimulants, such as methamphetamine, that are listed under Schedule II of the Convention on Psychotropic Substances of 1971. There is evidence that its abuse is likely to constitute a substantial public health and social problem. It has no known therapeutic use.

Recommendation: The Committee recommended that *alpha*-pyrrolidinoisohexanophenone (*IUPAC chemical name:* 4-Methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one), also known as *alpha*-PiHP, be added to Schedule II of the 1971 Convention on Psychotropic Substances.

3-Methylmethcathinone

Substance Identification

3-Methylmethcathinone (*IUPAC chemical name:* 2-(methylamino)-1-(3-methylphenyl)propan-1-one), also known as 3-MMC, is a synthetic cathinone. 3-Methylmethcathinone has been found as a white or off-white powder, a white, yellow, or orange solid, and a crystalline solid. It has been detected in tablet, capsule, and liquid forms.

WHO Review History

3-Methylmethcathinone was critically reviewed by the Committee at its 38th meeting, in 2016, when it decided to request a further critical review once more information became available and to consider it at a subsequent meeting. Information was brought to the attention of WHO that this substance is manufactured clandestinely, poses a risk to public health, and has no recognized therapeutic use. Information from international agencies suggests that there has been a significant increase in the availability of and harm due to 3-methylmethcathinone in recent years.

Similarity to Known Substances and Effects on the Central Nervous System

3-Methylmethcathinone is an isomer of 4-methylmethcathinone (mephedrone), which is a synthetic cathinone listed under Schedule II of the Convention on Psychotropic Substances of 1971.

3-Methylmethcathinone has a typical psychostimulant profile, similar to that of 4-methylmethcathinone, including inhibition of the reuptake of dopamine, norepinephrine, and serotonin, and increased release of dopamine and serotonin.

Clinical features of 3-methylmethcathinone intoxication are consistent with those produced by other stimulants and include tachycardia, hypertension, agitation, aggression, hallucinations, rhabdomyolysis, and kidney failure.

Dependence Potential

No controlled studies of the dependence potential of 3-methylmethcathinone in animals or humans have been reported. Withdrawal symptoms indicative of physical dependence have been documented in people who use 3-methylmethcathinone. In view of its actions and effects on the central nervous system, 3-methylmethcathinone would be expected to produce dependence similar to other psychostimulants, such as methamphetamine.

Actual Abuse and/or Evidence of Likelihood of Abuse

In animal models predictive of rewarding effects, 3-methylmethcathinone produced effects that were similar to those of methamphetamine. 3-Methylmethcathinone also produced behavioural (stimulant) effects similar to methamphetamine. No controlled studies in humans have examined the abuse potential of 3-methylmethcathinone.

3-Methylmethcathinone has been seized in multiple countries in several regions. Many fatal and non-fatal intoxications involving 3-

methylmethcathinone have been reported. Other substances were commonly involved in these cases, although severe intoxication and death have been reported in cases in which 3-methylmethcathinone was the only substance identified.

Therapeutic Usefulness

3-Methylmethcathinone is not known to have any therapeutic use.

Recommendation

3-Methylmethcathinone (*IUPAC chemical name:* 2-(methylamino)-1-(3-methylphenyl)propan-1-one), also known as 3-MMC, is a synthetic cathinone with effects similar to those of other synthetic cathinones and other psychostimulants such as methamphetamine that are listed under Schedule II of the Convention on Psychotropic Substances of 1971. There is evidence that its abuse is likely to constitute a substantial public health and social problem. It has no known therapeutic use.

Recommendation: The Committee recommended that 3-Methylmethcathinone (*IUPAC chemical name:* 2-(methylamino)-1-(3-methylphenyl)propan-1-one), also known as 3-MMC, be added to Schedule II of the Convention on Psychotropic Substances of 1971.

Substances to be kept under surveillance:

Adinazolam

Substance Identification

Adinazolam (*IUPAC chemical name:* 8-Chloro-*N,N*-dimethyl-6-phenyl-4*H*-[1,2,4]triazolo[4,3-*a*][1,4]benzodiazepine-1-methanamine) is a triazolobenzodiazepine. Adinazolam appears as a white or yellow powder and is also sold as tablets and capsules, including as falsified pharmaceuticals.

WHO Review History

Adinazolam has not been formally reviewed by WHO and is not currently under international control. Information was brought to the attention of WHO that this substance is manufactured clandestinely, poses a risk to public health, and has no recognized therapeutic use.

Similarity to Known Substances and Effects on the Central Nervous System

Adinazolam is a short-acting benzodiazepine with moderate affinity for the benzodiazepine receptor. It is a chemical analogue of alprazolam and triazolam.

Consistent with its benzodiazepine receptor action, adinazolam showed anticonvulsant, anxiolytic and antidepressant properties in animals. In humans, adinazolam (and its metabolite *N*-desmethyladinazolam) produced a dose-dependent decrease in psychomotor performance and increased sedation and amnesia. It also had some subjective effects similar to those of benzodiazepines such as diazepam and lorazepam, which are controlled under Schedule IV of the 1971 Convention on Psychotropic Substances.

Dependence Potential

No studies have been conducted in animals or humans on the dependence potential of adinazolam. In view of its mechanism of action, however, it would be expected to produce typical benzodiazepine dependence.

Actual Abuse and/or Evidence of Likelihood of Abuse

In animals, adinazolam shows behavioural effects consistent with those of drugs with abuse liability. In controlled studies in humans, adinazolam produced sedation, and, in one controlled study, adinazolam produced a self-reported ''high'' feeling, with a greater estimated street value than placebo.

While seizures of adinazolam have been reported in a few countries in two regions, currently there is insufficient evidence that it is being abused to such an extent as to constitute a public health problem.

Adinazolam was identified in a few drug-related deaths in combination with other psychoactive substances, including opioids and other benzodiazepines; however, there was no evidence that adinazolam played a causative role in these deaths.

Therapeutic Usefulness

Adinazolam is not known to have any therapeutic use.

Recommendation

Adinazolam (*IUPAC chemical name:* 8-Chloro-*N,N*-dimethyl-6-phenyl-4*H*-[1,2,4]triazolo[4,3-*a*][1,4]benzodiazepine-1-methanamine) has effects similar to those of substances listed under Schedule IV of the Convention on Psychotropic Substances of 1971. There is, however, insufficient evidence that its use is a public health and social problem to justify its placement under international control.

Recommendation: The Committee recommended that adinazolam (IUPAC chemical name: 8-Chloro-*N,N*-dimethyl-6-phenyl-4*H*-[1,2,4]triazolo[4,3-*a*][1,4]benzodiazepine-1-methanamine) be kept under surveillance by the WHO Secretariat.

Bromazolam

Substance Identification

Bromazolam (8-Bromo-1-methyl-6-phenyl-4*H*-[1,2,4]triazolo[4,3-*a*][1,4]benzodiazepine) is a triazolobenzodiazepine. Bromazolam has been described as a white or crystalline solid and has been identified in tablets, capsules, powders, solutions, and edible products. Bromazolam has been identified in falsified pharmaceutical benzodiazepine products.

WHO Review History

Bromazolam has not been formally reviewed by WHO and is not currently under international control. Information was brought to the attention of WHO that this substance is manufactured clandestinely, poses a risk to public health and has no recognized therapeutic use.

Similarity to Known Substances and Effects on the Central Nervous System

There is currently insufficient information on the pharmacological profile of bromazolam from controlled studies in animals or humans to conclude that it has effects similar to those of benzodiazepines, which are controlled under the 1971 Convention on Psychotropic Substances.

Online self-reports by people who claim to have used bromazolam describe benzodiazepine-like effects, including hypnotic, sedative, muscle relaxant, and euphoric effects. There are, however, no clinical reports or analytical confirmation of bromazolam to confirm these effects.

Dependence Potential

No controlled studies in animals or humans have been reported on the dependence potential of bromazolam. Online self-reports describe withdrawal symptoms after cessation of chronic use.

Actual Abuse and/or Evidence of Likelihood of Abuse

No controlled studies in animals or humans have been reported on the abuse liability of bromazolam. In self-reports online, people have described using the drug for its euphoric and other benzodiazepine-like effects; however, there is no confirmation that that the substance used was bromazolam.

Seizures of bromazolam have been reported in multiple countries in several regions. Bromazolam has been analytically confirmed in a number of deaths, non-fatal intoxications, and instances of driving under the influence of drugs. Because of the presence of other drugs, especially other benzodiazepines; however, the contribution of bromazolam cannot be determined.

Therapeutic Usefulness

Bromazolam is not known to have any therapeutic uses and has never been marketed as a medicinal product.

Recommendation

While the chemical structure of bromazolam (8-Bromo-1-methyl-6-phenyl-4*H*-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine) is similar to those of other benzodiazepines listed under the Convention on Psychotropic Substances of 1971, its mechanism of action and effects are yet to be confirmed. Although there is increasing evidence of its use, no studies in animals or humans have been reported on the effects or abuse potential of bromazolam. The limited information on its effects provides insufficient evidence to justify placement of bromazolam under international control.

Recommendation: The Committee recommended that bromazolam (8-Bromo-1-methyl-6-phenyl-4*H*-[1,2,4]triazolo[4,3-*a*][1,4]benzodiazepine) be kept under surveillance by the WHO Secretariat.

Zopiclone

Substance Identification

Zopiclone (*IUPAC chemical name:* 6-(5-Chloropyridin-2-yl)-7-oxo-6,7-dihydro-5*H*-pyrrolo[3,4-b]pyrazin-5-yl 4-methylpiperazine-1-carboxylate) is a sedative hypnotic drug of the cyclopyrrolone class. Zopiclone has been reported as a white or slightly yellowish powder. Zopiclone is available as pharmaceutical products in tablet form for oral use. Eszopiclone (the S-enantiomer of zopiclone) is marketed as a pharmaceutical product in some countries.

WHO Review History

Zopiclone was pre-reviewed by the Committee at its 29th meeting, when it recommended that surveillance be continued but that a critical review was not required.

In view of the abuse liability of the drug and the significant number of reports of adverse drug reactions related to zopiclone abuse sent to the WHO international drug monitoring programme; however, zopiclone was pre-reviewed by the Committee at its 33rd meeting, when it recommended a critical review. Zopiclone was critically reviewed at the 34th meeting, in 2006, when the Committee rated its abuse liability as low and its therapeutic usefulness considerable and recommended continued surveillance by WHO. A pre-review was initiated after a proposal was received from an international agency that suggested a significant increase in the reported number of trafficking cases and seizures involving zopiclone.

Similarity to Known Substances and Effects on the Central Nervous System

Zopiclone binds to the benzodiazepine receptor that forms part of the GABAA receptor complex. It may bind to different parts of the receptor or cause different changes in the GABAA receptor complex than benzodiazepines.

In animals, zopiclone has sedative, anxiolytic, anticonvulsant, and muscle relaxant properties similar to those of benzodiazepines. In studies in humans, it was less effective than benzodiazepines for treatment of anxiety.

Dependence Potential

Studies in animals show evidence of zopiclone tolerance and withdrawal, indicating the development of physical dependence. A number of published reports have described physical dependence associated with zopiclone use in humans. Withdrawal symptoms such as increased anxiety and insomnia have been described in people who cease zopiclone use, usually after prolonged use and dose escalation from clinical use. Tolerance and withdrawal have also been reported in clinical trials. Dependence is documented in databases on adverse events associated with pharmaceutical use.

Actual Abuse and/or Evidence of Likelihood of Abuse

Studies in animals suggest that zopiclone may have abuse liability similar to that of benzodiazepines such as midazolam, diazepam, nitrazepam, and alprazolam. The effects indicative of abuse liability were blocked by the benzodiazepine antagonist flumazenil, indicating a mechanism of action involving the benzodiazepine receptor.

No controlled studies in humans have been reported on the abuse potential of zopiclone. Published reports describe effects consistent with benzodiazepine-like abuse potential, its use with alcohol and other drugs and escalation to high-dose use. The extent of harm related to the use of zopiclone is, however, unclear.

Zopiclone is widely used therapeutically in many countries and regions, and it is also listed in databases of adverse events associated with pharmaceutical use. Zopiclone is most likely to be misused by individuals to whom it is prescribed for long periods, who are using other psychoactive drugs or in those with psychiatric comorbidities. While seizures of zopiclone have been reported in multiple countries in several regions, the prevalence of non-medical use of zopiclone by the general population is unknown. Furthermore, there is insufficient evidence that significant public health and social problems related to abuse can be directly attributed to sole use of zopiclone.

Therapeutic Usefulness

Zopiclone is a widely used medicine primarily indicated for the short-term treatment of insomnia, with marketing authorisations in many countries. It is not listed on the WHO Model List of Essential Medicines.

Recommendation

Zopiclone (*IUPAC chemical name:* 6-(5-Chloropyridin-2-yl)-7-oxo-6,7-dihydro-5H-pyrrolo[3,4-b]pyrazin-5-yl 4-methylpiperazine-1-carboxylate) is a sedative hypnotic drug of the cyclopyrrolone class. The Committee noted that concern has been expressed in several countries regarding non-prescription use of zopiclone. While there have been reports of adverse effects, overdose, withdrawal symptoms and an increased number of seizures of the substance, there is still insufficient evidence that zopiclone is or is likely to be abused to such an extent as to constitute a public health and social problem.

The Committee also noted that zopiclone is widely used therapeutically in many countries.

Recommendation: The Committee recommended that zopiclone (*IUPAC chemical name:* 6-(5-Chloropyridin-2-yl)-7-oxo-6,7-dihydro-5H-pyrrolo[3,4-b]pyrazin-5-yl 4-methylpiperazine-1-carboxylate) not proceed to critical review but be kept under surveillance by the WHO Secretariat.

III. Discussion

Although WHO has made specific scheduling recommendations for each of the drug substances, the CND is not obliged to follow the WHO recommendations. Options available to the CND for substances considered for control under the 1971 Convention include the following: (1) accept the WHO recommendations; (2) accept the recommendations to control but control the drug substance in a schedule other than that recommended; or (3) reject the recommendations entirely.

ADB-BUTINACA (*chemical name:* N-[1-(Aminocarbonyl)-2,2-dimethylpropyl]-1-butyl-1H-indazole-3-carboxamide) is a synthetic cannabinoid that is a potent agonist of the cannabinoid (CB) 1 and CB2 receptors. Adverse effects associated with synthetic cannabinoids include euphoria, appetite stimulation, sedation, loss of consciousness, and paranoia. The use of ADB-BUTINACA has been associated with fatalities in the United States in which other drugs were also detected. ADB-BUTINACA is not approved for medical use in the United States. ADB-BUTINACA has been detected in the illicit drug market in the United States since 2020 as evidenced by drug seizures. As a positional isomer of AB-PINACA (N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide), ADB-BUTINACA is controlled under schedule I of the CSA. As such, additional permanent controls will not be needed if ADB-BUTINACA is placed under schedule II of the Convention on Psychotropic Substances.

Alpha-PiHP (4-methyl-1-phenyl-2-(pyrrolidin-1-yl)pentan-1-one) is a synthetic cathinone with chemical and pharmacological properties similar to schedule I and II amphetamines and cathinones such as *alpha*-PHP, *alpha*-PVP, and MDPV. Reports of intoxication indicate that *alpha*-PiHP produces psychoactive effects similar to methamphetamine and cocaine. Adverse events associated with the abuse of synthetic cathinones include, but are not limited to, agitation, hypertension, tachycardia, and death. *Alpha*-PiHP is not approved for medical use in the United States. *Alpha*-PiHP has been identified in a number of drug seizures in the United States and has been detected in mixtures with other drugs including opioids and benzodiazepines. As a positional isomer of *alpha*-PHP (1-phenyl-2-(pyrrolidin-1-yl)hexan-1-one), *alpha*-PiHP is controlled under schedule I of the CSA. As such, additional permanent controls will not be needed if *alpha*-PiHP is placed in Schedule II of the Convention on Psychotropic Substances.

3-Methylmethcathinone (2-(methylamino)-1-(3-methylphenyl)propan-1-one) is a synthetic cathinone with chemical and pharmacological properties similar to schedule I and II amphetamines and cathinones such as amphetamine and 4-methylmethcathinone (mephedrone, 4-MMC). Reports of intoxication of 3-methylmethcathinone indicate that it produces psychoactive effects similar to stimulants such as methamphetamine. These reports also indicate that it produces adverse events which include tachycardia, hypertension, agitation, aggression, hallucinations, rhabdomyolysis, and kidney failure. Several fatalities have been reported in which 3-methylmethcathinone was the only drug detected, however, in some other cases other drugs were detected. 3-Methylmethcathinone is not approved for medical use in the United States. 3-Methylmethcathinone has been identified in a number of drug seizures in the United States and has been detected in mixtures with other drugs including opioids and benzodiazepines. As a positional isomer of 4-

methylmethcathinone (2-(methylamino)-1-(4-methylphenyl)propan-1-one; mephedrone), 3-methylmethcathinone is controlled under schedule I of the CSA. As such, additional permanent controls will not be needed if 3-methylmethcathinone is placed in Schedule II of the Convention on Psychotropic Substances.

FDA, on behalf of the Secretary of HHS, invites interested persons to submit comments on the notifications from the United Nations concerning these drug substances. FDA, in cooperation with the National Institute on Drug Abuse, will consider the comments on behalf of HHS in evaluating the WHO scheduling recommendations. Then, under section 201(d)(2)(B) of the CSA, HHS will recommend to the Secretary of State what position the United States should take when voting on the recommendations for control of substances under the 1971 Convention at the CND meeting in March 2023.

Comments regarding the WHO recommendations for control of 2-methyl-AP-237, etazene, etonitazepyne, and protonitazene under the 1961 Single Convention will also be forwarded to the relevant Agencies for consideration in developing the U.S. position regarding narcotic substances at the CND meeting.

Dated: February 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–03375 Filed 2–16–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Product-Specific Guidances; Draft and Revised Draft Guidances for Industry; Reopening of the Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; reopening of the comment period.

SUMMARY: The Food and Drug Administration (FDA or Agency) is reopening the comment period for the notice entitled ''Product-Specific Guidances; Draft and Revised Draft Guidances for Industry,'' published in the **Federal Register** of November 18, 2022. The Agency is taking this action to allow interested persons additional time to submit comments.

DATES: FDA is reopening the comment period for the notice published on November 18, 2022 at 87 FR 69278. Either electronic or written comments must be submitted by April 18, 2023.

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–2007–D–0369 for ''Product-Specific Guidances; Draft and Revised Draft Guidances for Industry.'' 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 draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Christine Le, Center for Drug Evaluation and Research, Food and Drug Administration, 301–796–2398, *PSG-Questions@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of November 18, 2022 (87 FR 69278), FDA published a notice with a 60-day comment period to request comment on the guidances for industry entitled, ''Product-Specific Guidances; Draft and Revised Draft Guidances for Industry.'' The Agency has received a request for a 60-day extension of the comment period for the notice. FDA has considered the request and is reopening the comment period for the notice until April 18, 2023. The Agency believes that an additional 60 days will allow adequate time for interested persons to submit comments.

II. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.*

Dated: February 14, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–03385 Filed 2–16–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2018–N–4002]

Electronic Submission of Adverse Event Reports to the Food and Drug Administration Adverse Event Reporting System Using International Council of Harmonisation E2B(R3) Standards; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing a series of two public meetings entitled ''Electronic Submission of Adverse Event Reports to FDA Adverse Event Reporting System (FAERS) Using International Council for Harmonisation (ICH) E2B(R3) Standards.'' The purpose of these public meetings is to provide the pharmaceutical industry and other interested parties with updated information on the plans, progress, and technical specifications to upgrade electronic submission standards for drug, biological product, and drug- or biologic-led combination products in the premarket and postmarket safety surveillance programs managed by the Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER). These meetings are part of a public meeting series initiated by FDA in 2019 to communicate FDA's implementation plan and regional requirements for ICH E2B(R3). The 2023 meetings will focus on enhancements to electronic submission of Individual Case Safety Reports (ICSRs) in FAERS using ICH E2B(R3) standards. FDA is seeking input from stakeholders as it fulfills its commitment to implement ICH E2B(R3) and will use the information provided by the public to inform the enhancements to FAERS required for the implementation of ICH E2B(R3) standards and relevant regional variations.

DATES: The first public meeting will be held on April 4, 2023, from 9 a.m. to 3 p.m. The second public meeting will be held on November 7, 2023, from 9 a.m. to 12 p.m. Submit either electronic or written comments on these public meetings by May 3, 2023, for the first public meeting, and by December 6, 2023, for the second public meeting. See the **SUPPLEMENTARY INFORMATION** section for registration dates and information.

ADDRESSES: The public meeting will be held virtually, by webcast only.

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. For timely consideration, we request that electronic comments be submitted no later than 30 days after each public meeting (*i.e.,* comments submitted by or before May 3, 2023, for the first public meeting; and December 6, 2023, for the second public meeting. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of December 6, 2023). Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

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–2018–N–4002 for ''Electronic Submission of Adverse Event Reports to FAERS using ICH E2B(R3) Standards.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit

both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Suranjan De, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 4307, Silver Spring, MD 20993–0002, 240–402–0498, *eprompt@fda.hhs.gov;* or Katie Rivers, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7336, Silver Spring, MD 20993–0002, 301–796–1818, *eprompt@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

FDA is committed to achieving the long-term goal of improving the predictability and consistency of the electronic submission process and enhancing transparency and accountability of FDA information technology-related activities. FDA participated in the development of an ICH E2B guideline [1] pertaining to the submission of adverse event reports to the FAERS system: ''Implementation Guide for Electronic Transmission of Individual Case Safety Reports (ICSRs) E2B(R3) Data Elements and Message Specification.'' In the Prescription Drug User Fee Act VI commitment letter, FDA committed to the goal of allowing industry to participate in user acceptance testing and/or organizing a meeting to provide industry an opportunity to provide feedback in advance of the Agency's implementation of ICH E2B(R3) data standards for electronic submission of adverse event reports. The commitment letter outlines FDA's performance goals and procedures under the Prescription Drug User Fee Act VI program for the years 2018–2022 (available at *https://www.fda.gov/media/99140/download*). In 2019 and 2020 FDA had conducted a series of three public meetings to communicate FDA's implementation plan and regional requirements for ICH E2B(R3). FDA incorporated the recommendations received in the comments from the 2019 and 2020 public meetings as ICH E2B(R3) regional technical specifications.

II. Topics for Discussion at the Public Meeting

The public meetings will include a general discussion of the updated specifications for premarketing and postmarketing ICSRs listed in the FDA Regional Implementation Guide for E2B(R3) Electronic Submission of Individual Case Safety Reports for Drug and Biological Products that published in April 2022 (available at *https://www.fda.gov/drugs/questions-and-answers-fdas-adverse-event-reporting-system-faers/fda-adverse-event-reporting-system-faers-electronic-submissions*). The goal of this discussion is to communicate the updated specific regional requirements that will enhance the quality of adverse event reports received by the Agency. The information exchange at the meetings will enhance the pharmaceutical industry's knowledge of the processes needed to implement ICH E2B(R3) into their systems. In addition, the comments provided by participating stakeholders will continue to inform CDER and CBER's plans for the implementation of ICH E2B(R3) for drugs, biological products, and drug- or biologic-led combination products.

During the public meetings, FDA intends to discuss: (1) E2B(R3) Regional (U.S.) data elements and business rules; (2) usage of data standards in E2B(R3); (3) submission paths for premarket and postmarket ICSRs; (4) forward compatible rules; (5) review of FDA Regional Implementation Specifications for ICH E2B(R3) Implementation; and (6) FDA ICSR XML Instances. One or more topics may be discussed in each meeting. FDA will consider all comments made at these public meetings or received through the docket (see **ADDRESSES**).

III. Participating in the Public Meeting

Registration: To register for the public meetings, please visit *https://fdae2br3.eventbrite.com* by March 31, 2023, for the first meeting and November 3, 2023, for the second meeting. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone.

An agenda will be made available at least 3 days before each public meeting at *https://www.fda.gov/drugs/news-events-human-drugs/electronic-submission-adverse-event-reports-fda-adverse-event-reporting-system-faers-using.*

Streaming Webcast of the Public Meetings and Video of the Public Meetings: These public meetings will only be webcast; the URL will be posted at *https://www.fda.gov/drugs/news-events-human-drugs/electronic-submission-adverse-event-reports-fda-adverse-event-reporting-system-faers-using* at least 1 day before each meeting. A recording of the public workshops will be available at the same website address for 1 year.

Transcripts: Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at *https://www.regulations.gov.* It may be viewed at the Dockets Management Staff (see **ADDRESSES**). A link to the transcript will also be available on the internet at *https://www.fda.gov/drugs/news-events-human-drugs/electronic-submission-adverse-event-reports-fda-adverse-event-reporting-system-faers-using.*

Dated: February 14, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–03372 Filed 2–16–23; 8:45 am]

BILLING CODE 4164–01–P

[1] The ICH E2B(R3) IG guideline (*http://estri.ich.org/e2br3/index.htm*) provides technical and business specifications for the harmonized, core set of ICH data elements.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Product-Specific Guidances; Draft and Revised Draft Guidances 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 additional draft and revised draft product-specific guidances. The guidances provide product-specific

recommendations on, among other things, the design of bioequivalence (BE) studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of June 11, 2010, FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific guidances available to the public on FDA's website. The guidances identified in this notice were developed using the process described in that guidance.

DATES: Submit either electronic or written comments on the draft guidance by April 18, 2023 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2007–D–0369 for ''Product-Specific Guidances; Draft and Revised Draft Guidances for Industry.'' 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 draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Christine Le, Center for Drug Evaluation and Research, Food and Drug Administration, 301–796–2398, *PSG-Questions@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific guidances available to the public on FDA's website at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs.*

As described in that guidance, FDA adopted this process as a means to develop and disseminate product-specific guidances and provide a meaningful opportunity for the public to consider and comment on those guidances. Under that process, draft guidances are posted on FDA's website and announced periodically in the **Federal Register**. The public is encouraged to submit comments on those recommendations within 60 days of their announcement in the **Federal Register**. FDA considers any comments received and either publishes final guidances or publishes revised draft guidances for comment. Guidances were last announced in the **Federal Register** on November 18, 2022 (87 FR 69278). This notice announces draft product-specific guidances, either new or revised, that are posted on FDA's website.

II. Drug Products for Which New Draft Product-Specific Guidances Are Available

FDA is announcing the availability of new draft product-specific guidances for industry for drug products containing the following active ingredients:

TABLE 1—NEW DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS

Active ingredient(s)
Afamelanotide.
Bismuth subsalicylate; Metronidazole; Tetracycline hydrochloride.
Cabotegravir; Rilpivirine.
Dexmethylphenidate hydrochloride; Serdexmethylphenidate chloride.
Dihydroergotamine mesylate.
Donepezil hydrochloride.
Fexinidazole.
Glucagon.
Golodirsen.
Ibrexafungerp citrate.
Infigratinib phosphate.
Leuprolide mesylate.
Mechlorethamine hydrochloride.
Olanzapine; Samidorphan L-malate.
Sirolimus.
Sotorasib.
Testosterone.
Triamcinolone acetonide.
Venlafaxine besylate.
Viltolarsen.
Vosoritide.

III. Drug Products for Which Revised Draft Product-Specific Guidances Are Available

FDA is announcing the availability of revised draft product-specific guidances for industry for drug products containing the following active ingredients:

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC GUIDANCES FOR DRUG PRODUCTS

Active ingredient(s)
Benzoyl peroxide; Clindamycin phosphate (multiple reference listed drugs).
Hydroxyurea.
Mirabegron.
Naproxen sodium.
Siponimod fumaric acid.
Sucralfate (multiple reference listed drugs).

For a complete history of previously published **Federal Register** notices related to product-specific guidances, go to *https://www.regulations.gov* and enter Docket No. FDA–2007–D–0369.

These draft guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). These draft guidances, when finalized, will represent the current thinking of FDA on, among other things, the product-specific design of BE studies to support ANDAs. They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

IV. Paperwork Reduction Act of 1995

FDA tentatively concludes that these draft guidances contain no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

V. Electronic Access

Persons with access to the internet may obtain the draft guidance at *https://www.fda.gov/drugs/guidance-compliance-regulatory-information/guidances-drugs*, *https://www.fda.gov/regulatory-information/search-fda-guidance-documents*, or *https://www.regulations.gov.*

Dated: February 10, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–03364 Filed 2–16–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–2044]

Termination of Authorization of Emergency Use of an In Vitro Diagnostic for Detection of Enterovirus D68

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the termination of the May 12, 2015, Emergency Use Authorization (EUA) (authorization) issued under the Federal Food, Drug, and Cosmetic Act (FD&C Act) for the Centers for Disease Control and Prevention's (CDC) Enterovirus D68 (EV–D68) 2014 Real-time RT–PCR Assay (EV–D68 2014 rRT–PCR) (CDC EV–D68 EUA). Issuance of the CDC EV–D68 EUA

was supported by former Secretary of Health and Human Services (HHS) Sylvia M. Burwell's February 6, 2015, declaration that circumstances exist justifying the authorization of emergency use of new in vitro diagnostics for detection of EV–D68, pursuant to the FD&C Act. On February 6, 2023, the Secretary of HHS terminated the February 6, 2015, declaration, effective February 20, 2023, an action that automatically terminated any EUAs issued by the FDA pursuant to the declaration, in this case, the CDC EV–D68 EUA.

DATES: The CDC EV–D68 EUA is terminated as of February 20, 2023.

ADDRESSES: Submit written requests for single copies of the EUA termination to the Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4338, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request or include a fax number to which the EUA termination may be sent. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the EUA termination.

FOR FURTHER INFORMATION CONTACT: Michael Mair, Office of Counterterrorism and Emerging Threats, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4340, Silver Spring, MD 20993–0002, 301–796–8510 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. EUA Background

Section 564 of the FD&C Act (21 U.S.C. 360bbb–3) as amended by the Project BioShield Act of 2004 (Pub. L. 108–276), the Pandemic and All-Hazards Preparedness Reauthorization Act of 2013 (Pub. L. 113–5), 21st Century Cures Act of 2016 (Pub. L. 114–255), and Public Law 115–92 (2017), allows FDA to strengthen the public health protections against biological, chemical, nuclear, and radiological agents and other agents that may cause, or are otherwise associated with, an imminently life-threatening and specific risk to U.S. military forces. Among other things, section 564 of the FD&C Act allows FDA to authorize the use of an unapproved medical product or an unapproved use of an approved medical product in certain situations.

Section 564(b)(1) of the FD&C Act provides that, before an EUA may be issued, the Secretary of HHS must declare that circumstances exist justifying the authorization based on one of the following grounds: (1) a determination by the Secretary of Homeland Security that there is a domestic emergency, or a significant potential for a domestic emergency, involving a heightened risk of attack with a biological, chemical, radiological, or nuclear agent or agents; (2) a determination by the Secretary of Defense that there is a military emergency, or a significant potential for a military emergency, involving a heightened risk to U.S. military forces, including personnel operating under the authority of title 10 or title 50, United States Code, of attack with (i) a biological, chemical, radiological, or nuclear agent or agents; or (ii) an agent or agents that may cause, or are otherwise associated with, an imminently life-threatening and specific risk to U.S. military forces; (3) a determination by the Secretary of HHS that there is a public health emergency, or a significant potential for a public health emergency, that affects, or has a significant potential to affect, national security or the health and security of U.S. citizens living abroad, and that involves a biological, chemical, radiological, or nuclear agent or agents, or a disease or condition that may be attributable to such agent or agents; or (4) the identification of a material threat by the Secretary of Homeland Security under section 319F–2 of the Public Health Service (PHS) Act (42 U.S.C. 247d–6b) sufficient to affect national security or the health and security of U.S. citizens living abroad.

Once the Secretary of HHS has declared that circumstances exist justifying an authorization under section 564 of the FD&C Act, FDA may issue an EUA only if, after consultation with the HHS Assistant Secretary for Preparedness and Response, the Director of the National Institutes of Health, and the Director of CDC (to the extent feasible and appropriate given the applicable circumstances), FDA [1] concludes that the statutory criteria for issuance of an EUA are met.

Under section 564(b)(2) of the FD&C Act, an EUA declaration shall be terminated upon the earlier of: (1) a determination by the Secretary of HHS that the circumstances described in the EUA declaration have ceased to exist or (2) a change in the approval status of the product. Under section 564(b)(3)(4) of the FD&C Act, HHS shall provide advance notice that an EUA declaration will be terminated and shall publish in the **Federal Register** the advance notice of termination. Termination of an EUA declaration will automatically terminate any EUAs that FDA issued under the declaration. Under section 564(h)(1) of the FD&C Act, FDA is required to publish in the **Federal Register** a notice of each EUA, and each termination or revocation of an EUA, and an explanation of the reasons for the action.

II. EUA Declaration and EUA for EV–D68 2014 rRT–PCR

On February 6, 2015, Sylvia M. Burwell, former Secretary of HHS, determined that there is a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of U.S. citizens living abroad and that involves EV–D68. On the basis of such determination, on February 6, 2015, the former Secretary of HHS also declared that circumstances exist justifying the authorization of emergency use of new in vitro diagnostics for detection of EV–D68, subject to the terms of any authorization issued under 21 U.S.C. 360bbb–3(a) (80 FR 10685). On May 12, 2015, and on the basis of the February 6, 2015, HHS declaration, FDA issued the CDC EV–D68 EUA. Notice of the issuance of the EUA was published in the **Federal Register** on July 1, 2015 (80 FR 37625).

On September 12, 2022, CDC requested the Secretary of HHS to terminate the February 6, 2015, determination, and as a result, FDA to revoke the CDC EV–D68 EUA. The EV–D68 2014 rRT–PCR for which an EUA was issued is no longer produced and all test kits were destroyed. CDC's EV–D68 2014 rRT–PCR was never distributed.

On February 6, 2023, pursuant to section 564 of the FD&C Act, the Secretary of HHS determined that there is no longer a significant potential for a public health emergency that has a significant potential to affect national security or the health and security of United States citizens living abroad and that involves EV–D68. Also on February 6, 2023, the Secretary of HHS determined that circumstances justifying the authorization of emergency use of new in vitro diagnostics for detection of EV–D68 no longer exist. Based on these determinations, the Secretary of HHS terminated, effective February 20, 2023, the February 6, 2015, declaration that circumstances exist justifying the authorization of emergency use of new in vitro diagnostics for detection of EV–D68. Advance notice of the termination of the February 6, 2015, declaration was published in the **Federal Register** on February 10, 2023, as required under

[1] The Secretary of HHS has delegated the authority to issue an EUA under section 564 of the FD&C Act to the Commissioner of Food and Drugs.

section 564 of the FD&C Act (88 FR 8874). Termination of the February 6, 2015, declaration automatically terminated the CDC EV–D68 EUA, which was the only EUA issued under the declaration.

III. Electronic Access

An electronic version of this document is available on the internet at *https://www.regulations.gov.*

IV. Notice of EUA Termination

Based on the Secretary of HHS's February 6, 2023, termination of the February 6, 2015, declaration that circumstances exist justifying the authorization of emergency use of new in vitro diagnostics for detection of EV–D68, FDA is issuing, under section 564(h)(1) of the FD&C Act, this notice of termination of the May 12, 2015, CDC EV–D68 EUA. Section 564(h)(1) of the FD&C Act requires FDA to provide notice of each termination of an authorization under section 564 of the FD&C Act, and an explanation of the reasons therefor.

Dated: February 13, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–03373 Filed 2–16–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request

Information Collection Request Title: Healthy Start Evaluation and Quality Improvement, OMB No. 0915–0338—Revision.

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with of the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than March 20, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Samantha Miller, the HRSA Information Collection Clearance Officer, at *paperwork@hrsa.gov* or call 301–594–4394.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Healthy Start Evaluation and Quality Improvement OMB No. 0915–0338—Revision.

Abstract: The National Healthy Start Program, authorized by 42 U.S.C. 254c–8 (section 330H of the Public Health Service Act), and funded through HRSA, has the goal to improve health outcomes before, during, and after pregnancy, and reduce racial/ethnic differences in rates of infant death and adverse perinatal outcomes. The program began as a demonstration project with 15 grantees in 1991 and has expanded since then to 101 grantees across 35 states; Puerto Rico; and Washington, DC. Healthy Start grantees operate in communities with rates of infant mortality at least 1.5 times the U.S. national average and high rates for other adverse perinatal outcomes. These communities are often low-income and located in geographically, racially, ethnically, and linguistically diverse areas. Healthy Start offers services during the perinatal period (before, during, after pregnancy) and the program works with women, men, and infants/children through the first 18 months after birth. The Healthy Start program pursues four goals: (1) improve women's health, (2) improve family health and wellness, (3) promote systems change, and (4) assure impact and effectiveness. Over the past few years, HRSA has sought to implement a uniform set of data elements for monitoring and conducting an evaluation to assess grantees' progress towards these program goals. Under the current OMB approval, the data collection instruments for the program's reporting requirements include three participant-level screening tools: (1) Background, (2) Prenatal, and (3) Parenting Information.

In this proposed revision, HRSA plans to retain the participant-level tools as approved by OMB in 2020; however, HRSA did introduce minor changes to the forms. These changes included only the following: correction of typos, addition of response options (*e.g.,* ''don't know,'' ''declined to answer''), and clarification of instructions. The purpose of these minor changes is to improve the quality of the instruments and make it easier for the respondents to complete the forms. The improved instructions should reduce confusion in completing the forms. Adding additional response options will eliminate forced responses that do not represent the participant's intent and will increase response accuracy.

A 60-day notice published in the **Federal Register**, Vol. 87, No. 203, FR 64065–64066 (Friday, October 21, 2022). There were no public comments.

Need and Proposed Use of the Information: The purpose of the revised data collection instruments will be to assess grantee and participant-level progress towards meeting Healthy Start program performance measures. The data will be used to conduct ongoing performance monitoring of the program, thus meeting program needs for accountability, programmatic decision-making, and ongoing quality assurance.

Likely Respondents: For the General Background, Prenatal, and Parenting Information participant-level forms, respondents include pregnant women, women of reproductive age, and men who are served by the Healthy Start program.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

Total Estimated Annualized Burden Hours:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
General Background Form	*45,700	1	45,700	.30	13,710
Prenatal	*30,300	1	30,300	.10	3,030
Parenting	*30,300	1	30,300	.25	7,575
Total	106,300		106,300		24,315

*All adult participants (45,700) complete the General Background form, and a subset of these same individuals (30,300) also complete the Prenatal or Parenting forms for total of 106,300 responses.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality and utility of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2023–03388 Filed 2–16–23; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

The Special Diabetes Program for Indians Nashville Area Technical Assistance and Support Program

Announcement Type: New Single Source.

Funding Announcement Number: HHS–2023–IHS–SDPI–0002.

Assistance Listing (Catalog of Federal Domestic Assistance or CFDA) Number: 93.237.

Key Dates

Application Deadline Date: April 3, 2023.

Earliest Anticipated Start Date: April 18, 2023.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting an application for a single source cooperative agreement with United South and Eastern Tribes, Inc. (USET) to continue the Special Diabetes Program for Indians (SDPI) Nashville Area technical assistance and support. These services are authorized under the Snyder Act, 25 U.S.C. 13; the Transfer Act, 42 U.S.C. 2001(a); and Section 330C of the Public Health Service Act, codified at 42 U.S.C. 254c–3. This program is described in the Assistance Listings located at *https://sam.gov/content/home/* (formerly known as the CFDA) under 93.237.

Background

Diabetes is a complex and costly chronic disease that requires tremendous long-term efforts to prevent and treat. Although diabetes is a nationwide public health problem, American Indian and Alaska Native (AI/AN) people are disproportionately affected. In 2019, 14.5 percent of AI/AN people aged 18 years or older had diagnosed diabetes, compared to 7.4 percent of non-Hispanic white people [CDC, 2021. *https://www.cdc.gov/diabetes/data/statistics-report/diagnosed-diabetes.html*]. In addition, AI/AN people have higher rates of diabetes-related morbidity and mortality than the general U.S. population [O'Connell, 2010 (*https://diabetesjournals.org/care/article/33/7/1463/39326/Racial-Disparities-in-Health-StatusA-comparison-of*); Cho, 2014 (*https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2014.301968*)]. Strategies to address the prevention and treatment of diabetes in AI/AN communities are urgently needed.

In response to the burgeoning diabetes epidemic among AI/AN people, Congress established the SDPI through the Balanced Budget Act of 1997. This grant program was developed to provide diabetes treatment and/or prevention activities and/or services (also referred to as ''activities/services'') for AI/AN communities. There are currently 302 SDPI grant programs that are dispersed throughout each of the 12 IHS Areas. Each of the IHS Areas contain SDPI programs (primary grantees or subgrantees) that implement the mandatory requirements of the grant management process, including, but not limited to, the grant application, budgetary requirements, data collection/analysis, reporting, training, etc. Of the 12 IHS Areas, 9 of them have elected to fund a mechanism to provide technical support for their SDPI programs within their Area. Since the inception of SDPI, the Nashville Area, IHS, has received technical assistance and SDPI program support from USET via an SDPI grant mechanism. It has been determined that in 2023, support for the Nashville Area SDPI programs would need to be supported by USET via an IHS cooperative agreement.

Purpose

The purpose of this program is to allow USET to continue to provide technical assistance and SDPI program support for the SDPI grant programs in the Nashville Area. The focus of this assistance and support would be in the areas of grant management, program capacity building, budget development, and grant reporting to ensure the Nashville Area SDPI programs are meeting all of the grant requirements and deliverables in a timely manner. To do this, USET must meet the following objectives:

- Provide culturally-appropriate training and technical assistance to Nashville SDPI programs using diabetes-specific tools, the Resource and Patient Management System (RPMS), and other electronic health record (EHR) systems.
- Continue to refine and provide practical and innovative diabetes project tools.
- Build partnerships and collaboration for the expansion of resources and services to Tribal diabetes programs.
- Demonstrate and provide culturally appropriate training to Tribal programs on various Best Practices and topics, such as tobacco cessation, nutrition, physical activity, eye exams, motivational interviewing, Healthy Heart and Diabetes Prevention Program curricula, traditional foods/gardens, and motivational interviewing.

Required, Optional, and Allowable Activities

(1) Complete a needs assessment survey to help plan program activities and prioritize site visits throughout the Nashville Area, IHS.

(2) The project contracts diabetes program coordinators to offer technical assistance and training and discuss the site's needs.

(3) Responds to community meetings and health fairs invitations to gather community input on needs in conjunction with data and technical assistance.

(4) Technical assistance, site visits, and online video calls.

(5) Assistance with patient listings on the diabetes register.

(6) QMan, VGEN, PGEN, GEN RPMS reports for WebAudit, register cleanup, and interim audit reports.

(7) Audit logic assistance for diabetes indicators in RPMS EHR.

(8) Virtual and onsite sessions for training using Visual Diabetes Management System (DMS), QMan, and Patient Care Component (PCC) Management Reports.

(9) Provide a minimum of four RPMS training in the DMS and other electronic tools for managing patient information.

(a) This is a 2.5-to-3 day training session.

(i) Inclusive components are hands-on instruction in the Diabetes Management System package for the EHR in both the ''roll and scroll'' interface and the Visual DMS graphical user interface (GUI). Topics include: building and maintaining diabetes and pre-diabetes registers, editing patient information, and running register and quality assurance reports. Additional topics include:

(1) Using QMAN for custom searches to meet the needs that commonly arise for diabetes programs;

(2) Creating panels of patients in iCare; and

(3) Performing the annual IHS Diabetes Audit with WebAudit.

(a) Instruction is hands-on using a training server with mock patient data.

(10) Prepare and distribute Tribe-specific and aggregate summary reports.

(11) Provide additional data analysis and reports at the request of the Tribal diabetes programs.

(12) Reports include the ''Diabetes Report,'' an annual Nashville Area, IHS ''Aggregate Report'' summarizing the Annual Diabetes Care and Outcomes Audit.

(13) Modify current tools and materials utilized by the project in response to changing Tribal practices, software developments, and updated standards of care.

(14) Distribute the Diabetes Screening Toolkit to Tribes upon request for implementation of community diabetes screening.

(15) Host a series of quarterly ''Best Practices'' diabetes training.

(16) Expand related technical assistance and training services provided to Tribal diabetes programs.

Sole Source Justification

The USET is identified as a single source for this cooperative agreement. The USET has effectively supported the Nashville Area SDPI grant programs since the inception of SDPI (for 25 years). In the previous SDPI grant cycle, the USET supported the work of 24 tribes in implementing SDPI. They did this by helping SDPI grantees submit applications and reports to ensure grant requirements are completed and submitted on time. They have developed an expertise in this area and developed a unique relationship with the Nashville Area, IHS grantees. The USET has played a significant and unique role in supporting Tribes in implementing curative measures throughout the Nashville Area, IHS. Their technical assistance and support in grant management, program capacity building, budget development, and grant reporting is a catalyst for positive change in diabetes treatment and prevention interventions across the Nashville Area, IHS. In addition, they have offered Tribes administrative grant oversight and support, limiting strain on staff and allowing more focus on program development and community outreach. The IHS is interested in USET continuing this successful work to support the SDPI grantees in the Nashville Area, IHS with their unique expertise.

II. Award Information

Funding Instrument—Cooperative Agreement

Estimated Funds Available

The total funding identified for the first budget year, starting in fiscal year (FY) 2023 is approximately $130,001. 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 an award that is selected for funding under this announcement.

Anticipated Number of Awards

One application will be accepted under this announcement for USET and only one award will be issued.

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 an Evaluation Plan to collect national program aggregate and local evidence-based practice (EBP) fidelity data.

III. Eligibility Information

1. Eligibility

The award is offered as a single source cooperative agreement to the USET.

Note: Please refer to Section IV.2 (Application and Submission Information/Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as proof of nonprofit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If the application is submitted with a budget request that exceeds the highest dollar amount outlined under Section II Award Information, Estimated Funds Available, or exceeds the period of performance outlined under Section II Award Information, Period of Performance, it will be considered not responsive and will not be reviewed. The Division of Grants Management (DGM), IHS will notify the applicant.

The following documentation is required (if applicable):

Proof of Nonprofit Status

If the organization claims nonprofit status, it 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 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.
- 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, 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—Program Information; Part 2—Program Planning and Evaluation; 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 people in the Nashville Area, IHS; diabetes treatment and prevention activities in Tribal Nations; and working with Tribes and Tribal organizations that implement or have implemented an SDPI program.

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 technical assistance and support will be provided to the Nashville Area SDPI programs; describe how the SDPI programs will be trained and supported throughout the grants management process; and describe how sites will be provided technical assistance with their data collection and analysis via their specific EHR.

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 SDPI 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 biosketches 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 SDPI programs, education agencies, and other Tribal programs for the benefit of AI/AN people 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 SDPI programs.

B. Budget Narrative (Limit—5 Pages)

Provide a budget narrative that explains the amounts requested for each line item of the budget from the SF–424A (Budget Information for Non-Construction Programs) for the first year of the project. The applicant can submit with the budget narrative a more detailed spreadsheet than is provided by the SF–424A (the spreadsheet will not be considered part of the budget

narrative). The budget narrative should specifically describe how each item will support the achievement of proposed objectives. Be very careful about showing how each item in the ''Other'' category is justified. Do NOT use the budget narrative to expand the project narrative.

3. Submission Dates and Times

The application must be submitted through *Grants.gov* by 11:59 p.m. Eastern Time on the Application Deadline Date. If the application is received after the application deadline it 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 DGM by email at *DGM@ihs.gov.* Please be sure to contact DGM 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 does 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. You must submit your waiver request by email to *DGM@ihs.gov.* Your waiver request must include clear justification for the need to deviate from the required application submission process. The IHS will not accept any applications submitted through any means outside of *Grants.gov* without an approved waiver.

If 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. An application that does not include a copy of the signed waiver from the DGM will not be reviewed. The Grants Management Officer of the DGM will notify the applicant via email of this decision. An application 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. If the applicant does not register for both the System for Award Management (SAM) and *Grants.gov* and/or fails 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.
- The applicant is 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.
- The applicant 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

An organization not registered with SAM must access the SAM online registration through the SAM home page at *https://sam.gov.* United States organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2 to 5 weeks to become active. Please see *SAM.gov* for details on the registration process and timeline. Registration with the SAM is free of charge but can take several weeks to process.

Applicants may register online at *https://sam.gov.*

Unique Entity Identifier

Your *SAM.gov* registration now includes a Unique Entity Identifier (UEI), generated by *SAM.gov*, which replaces the DUNS number obtained from Dun and Bradstreet. *SAM.gov* registration no longer requires a DUNS number. Check your organization's *SAM.gov* registration as soon as you decide to apply for this program. If your *SAM.gov* registration is expired, you will not be able to submit an application. It can take several weeks to renew it or resolve any issues with your registration, so do not wait.

Check your *Grants.gov* registration. Registration and role assignments in *Grants.gov* are self-serve functions. One user for your organization will have the authority to approve role assignments, and these must be approved for active users in order to ensure someone in your organization has the necessary access to submit an application.

The Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), requires all HHS awardees to report information on sub-awards. Accordingly, all IHS awardees must notify potential first-tier sub-awardees that no entity may receive a first-tier sub-award unless the entity has provided its UEI number to the prime awardee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

Additional information on implementing the Transparency Act, including the specific requirements for SAM, are available on the DGM Grants Management, Policy Topics web page at *https://www.ihs.gov/dgm/policytopics/.*

V. Application Review Information

Possible points assigned to each section are noted in parentheses. The project narrative and budget narrative should include only the first year of activities. The project narrative should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to fully understand the project. Attachments requested in the

criteria do not count toward the page limit for the narratives. Points will be assigned to each evaluation criteria adding up to a total of 100 possible points. Points are assigned as follows:

1. Evaluation Criteria

A. Introduction and Need for Assistance (20 Points)

This section should demonstrate knowledge of health concerns and issues regarding AI/AN people in the Nashville Area, IHS; diabetes treatment and prevention activities in Tribal Nations; and working with Tribes and Tribal organizations that implement or have implemented an SDPI program.

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 SDPI Nashville Area Technical Assistance and Support Program.

The work plan should be designed to:

a. Describe how and when technical assistance and support will be provided to the Nashville SDPI programs;

b. Describe how the SDPI programs will be trained and supported throughout the grants management process; and

c. Describe how sites will be provided technical assistance with their data collection and analysis via their specific EHR.

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.

e. The section should demonstrate knowledge in:

i. Providing administrative and support services to Tribal SDPI programs, education agencies, and other Tribal programs for the benefit of AI/AN people 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);

ii. Financial and project management; and

iii. 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 allowable costs.

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.

Additional documents can be uploaded as Other Attachments in *Grants.gov*. These can include:

- Work plan, 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

Your application will be prescreened for eligibility and completeness as outlined in the funding announcement. An application that meets the eligibility criteria shall be reviewed for merit by the Objective Review Committee (ORC) based on evaluation criteria. If the application is incomplete or is 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.

The applicant must address all program requirements and provide all required documentation.

3. Notifications of Disposition

The applicant 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 Notice for Funded Application

The Notice of Award (NoA) is the authorizing document for which funds are dispersed to the approved entity 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. The 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.

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

The award issued under this announcement is subject to, and is administered in accordance with, the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards currently in effect or implemented during the period of award, other Department regulations and policies in effect at the time of award, and applicable statutory provisions. At the time of publication, this includes 45 CFR part 75, at *https://www.govinfo.gov/content/pkg/CFR-2021-title45-vol1/pdf/CFR-2021-title45-vol1-part75.pdf.*
- Please review all HHS regulatory provisions for Termination at 45 CFR

75.372, at the time of this publication located at *https://www.govinfo.gov/content/pkg/CFR-2021-title45-vol1/pdf/CFR-2021-title45-vol1-sec75-372.pdf.*

C. Grants Policy:

• HHS Grants Policy Statement, Revised January 2007, at *https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf.*

D. Cost Principles:

• Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' at 45 CFR part 75 subpart E, at the time of this publication located at *https://www.govinfo.gov/content/pkg/CFR-2021-title45-vol1/pdf/CFR-2021-title45-vol1-part75-subpartE.pdf.*

E. Audit Requirements:

• Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' at 45 CFR part 75 subpart F, at the time of this publication located at *https://www.govinfo.gov/content/pkg/CFR-2021-title45-vol1/pdf/CFR-2021-title45-vol1-part75-subpartF.pdf.*

F. As of August 13, 2020, 2 CFR 200 was updated to include a prohibition on certain telecommunications and video surveillance services or equipment. This prohibition is described in 2 CFR 200.216. This will also be described in the terms and conditions of every IHS grant and cooperative agreement awarded on or after August 13, 2020.

2. Indirect Costs

This section applies if the awardee requests 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 can be used by applicants that have 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. The awardee is responsible and accountable for reporting accurate information on all required reports: the Progress Reports and the Federal Financial Report.

Failure to submit timely reports may result in adverse award actions blocking access to funds.

C. Data Collection and Reporting

The SDPI Nashville Area Technical Assistance and Support Program will ensure that each SDPI grant program in the Nashville Area, IHS is following the data collection/reporting requirements:

SDPI Outcomes System (SOS) Required Key Measures (RKM) Data Requirements—Data for the selected Best Practice RKM will be submitted using the SOS. Awardees will submit results for their RKM for their selected Best Practice into this system at the start (baseline) and end (final) of the budget period, with the option to submit more frequently. The system will generate SOS RKM data reports to meet the SDPI outcomes reporting requirements. These results will be stored in the system and will be accessible to program staff, as needed. Awardees will need to appoint at least one person in their program to get access to and submit data into the SOS.

i. *Baseline data:* Data is to be submitted into the SOS by the last business day of February each year (*e.g.,* 2023 baseline data will be by Tuesday, February 28, 2023). A report from the SOS showing baseline data submission will be due with continuation applications.

ii. *Final data:* Data for the prior budget period is to be submitted into the SOS by the last business day of January, each year (*e.g.,* 2023 final data will be

due by Wednesday, January 31, 2024). A report from the SOS showing baseline and final data submission will be due with the Annual Progress Report.

Refer to the SDPI website (*https://www.ihs.gov/sdpi/*) for the latest information on report templates, due dates, webinars and submission instructions.

Diabetes Care and Outcomes Audit Requirements—SDPI awardees are required to participate in the Annual Diabetes Audit (*https://www.ihs.gov/diabetes/audit/*). Awardees will submit data, review results, and provide a copy of their Annual Diabetes Audit Report with their annual SDPI applications. Diabetes Annual Audit data are to be submitted into the WebAudit each year around mid-March, (*e.g.,* 2023 Audit data collecting annual data will be due approximately March 15, 2023). Non-clinical or community-based awardees, that are not able to directly participate in the Diabetes Audit, will need to obtain a copy of the Annual Diabetes Audit Report from their local facility or Area Diabetes Consultant (*https://www.ihs.gov/diabetes/about-us/area-diabetes-consultants-adc/*).

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, where applicable, 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.*
- 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.

F. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the FAPIIS at *https://www.fapiis.gov/fapiis/#/home* before making any award in excess of the simplified acquisition threshold (currently $250,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. The IHS will consider any comments by the applicant, in addition to other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants, as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, NFEs are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive Federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10 million for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, the IHS must require an NFE or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. All applicants and awardees must disclose in writing, in a timely manner, to the IHS and to the HHS Office of Inspector General all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. 45 CFR 75.113.

Disclosures must be sent in writing to:

U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Marsha Brookins, Director, 5600 Fishers Lane, Mail Stop: 09E47, Rockville, MD 20857, (Include ''Mandatory Grant Disclosures'' in subject line), Office: (301) 443–5204, 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, 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:

Indian Health Service, Division of Grants Management, 5600 Fishers Lane, Mail Stop: 09E47, Rockville, MD 20857, Email: *DGM@ihs.gov*

3. For technical assistance with *Grants.gov*, please contact the *Grants.gov* help desk at 800–518–4726, or by email at *support@grants.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.

Roselyn Tso,

Director, Indian Health Service.

[FR Doc. 2023–03341 Filed 2–16–23; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; HIV Molecular Virology, Cell Biology, and Drug Development Study Section.

Date: March 6–7, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kenneth A. Roebuck, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435–1166, *roebuckk@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function A Study Section.

Date: March 7–8, 2023.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ian Frederick Thorpe, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 903K, Bethesda, MD 20892, (301) 480–8662, *ian.thorpe@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; HEAL Initiative.

Date: March 7, 2023.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dianne Hardy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6175, MSC 7892, Bethesda, MD 20892, 301–435–1154, *dianne.hardy@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; HEAL Initiative: Translational Development of Diagnostic and Therapeutic Devices.

Date: March 7, 2023.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Vanessa Dawn Sherk, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 801C, Bethesda, MD 20892, (301) 867–5309, *sherkv2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Neuropathophysiology of Decision Making and Chemobrain.

Date: March 7, 2023.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aleksey Gregory Kazantsev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5201, Bethesda, MD 20892, (301) 435–1042, *aleksey.kazantsev@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA/REAP: Musculoskeletal, Skin and Oral Sciences.

Date: March 8, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aftab A. Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, (301) 237–9931, *ansaria@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Chemical Synthesis and Biosynthesis Study Section (CSB).

Date: March 8–9, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Shan Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–4390, *shan.wang@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–22–201: NIDA Program Project Grant Applications.

Date: March 8, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Anne-Sophie Marie Lucie Wattiez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–4642, *annie-sophie.wattiez@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Innate Immunity, inflammation and Cellular Immunology.

Date: March 8–9, 2023.

Time: 11:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bakary Drammeh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 805–P, Bethesda, MD 20892, (301) 435–0000, *drammehbs@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 14, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–03413 Filed 2–16–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIDCD.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Institute on Deafness and Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDCD.

Date: March 29, 2023.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate staff reports on divisional, programmatical, and special activities.

Place: Porter Neuroscience Research Center, Building 35A, 35 Convent Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lisa L. Cunningham, Ph.D., Scientific Director, National Institute on Deafness and Other Communication Disorders, National Institutes of Health, 35A Convent Drive, Rockville, MD 20850, 301–443–2766, *lisa.cunningham@nih.gov.*

Information is also available on the Institute's/Center's home page: *https://www.nidcd.nih.gov/about/advisory-committees,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: February 14, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–03409 Filed 2–16–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: NIH Director's Early Independence Award Review.

Date: March 9–10, 2023.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: SBIR/STTR Commercialization Readiness Pilot (CRP) Program.

Date: March 9, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Allen B. Richon, Ph.D., BS Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892 (240) 760–0517, *allen.richon@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA Panel: Environmental Influences on Child Health Outcomes (ECHO) Resource Cores, Data Analysis Center, & Coordinating Center.

Date: March 14, 2023.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Steven Michael Frenk, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, (301) 480–8665, *frenksm@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Health Informatics.

Date: March 15–16, 2023.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave. NW, Washington, DC 20037.

Contact Person: Michael J. McQuestion, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, Bethesda, MD 20892, 301–480–1276, *mike.mcquestion@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Musculoskeletal, Orthopedic, Oral, Dermatology and Rheumatology.

Date: March 15–16, 2023.

Time: 8:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Aftab A. Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, (301) 237–9931, *ansaria@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Aging, Injury, Musculoskeletal, and Rheumatologic Disorders Study Section.

Date: March 15–16, 2023.

Time: 9:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.
Contact Person: Nketi I. Forbang, MD, MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1006K1, Bethesda, MD 20892, (301) 594–0357, *forbangni@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Cellular and Molecular Aspects of the Blood-Brain Barrier and Neurovascular System and Therapeutic Strategies.
Date: March 15, 2023.
Time: 9:00 a.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jacek Topczewski, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1002A1, Bethesda, MD 20892, (301) 594–7574, *topczewskij2@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Computational, Modeling, and Biodata Management.
Date: March 15, 2023.
Time: 9:30 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Marie-Jose Belanger, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm 6188, MSC 7804, Bethesda, MD 20892, 301–435–1267, *belangerm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA: Measures and Methods for Research on Family Caregivers for People Living with Alzheimer's Disease and Related Dementias (AD/ADRD).
Date: March 15, 2023.
Time: 10:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jessica Bellinger, Ph.D., Scientific Review Administrator, Center for Scientific of Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, Bethesda, MD 20892, 301–827–4446, *bellingerjd@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Immunology and Infectious Diseases B.
Date: March 15–16, 2023.
Time: 10:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Velasco Cimica, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–1760, *velasco.cimica@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Biomedical Data Repositories and Knowledgebases.
Date: March 15, 2023.
Time: 10:00 a.m. to 9:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Joseph Thomas Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7814, Bethesda, MD 20892, 301–408–9694, *petersonjt@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Hypersensitivity, Allergies and Mucosal Immunology (HAMI).
Date: March 15–16, 2023.
Time: 10:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kaushiki Mazumdar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–1427, *kaushiki.mazumdar@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering, Surgery, Anesthesiology, and Trauma.
Date: March 15, 2023.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Donald Scott Wright, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–8363, *wrightds@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 14, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–03407 Filed 2–16–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Review of Cooperative Agreement Research Projects.
Date: March 6, 2023.
Time: 3:00 p.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).
Contact Person: Eliane Lazar-Wesley, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, 6001 Executive Boulevard, Room 8339, MSC 9670, Bethesda, MD 20892–8401, 301–496–8683, *el6r@nih.gov*.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Review of NIDCD R25 Grant Applications.
Date: March 15, 2023.
Time: 1:00 p.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).
Contact Person: Eliane Lazar-Wesley, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, 6001 Executive Boulevard, Room 8339, MSC 9670, Bethesda, MD 20892–8401, 301–496–8683, *el6r@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: February 14, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–03408 Filed 2–16–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; 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 Center for Complementary and Integrative Health Special Emphasis Panel, REsearch Across Complementary and Integrative Health Institutions (REACH) Virtual Resource Centers (U24 Clinical Trial Not Allowed).

Date: March 28, 2023.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Center for Complementary and Integrative Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Marta V. Hamity, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH/NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892, *marta.hamity@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: February 14, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–03404 Filed 2–16–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; NCCIH Training and Education Review Panel (CT).

Date: March 16–17, 2023.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Complementary and Integrative, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jessica M. McKlveen, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH, NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892–547, *jessica.mcklveen@nih.gov.*

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; Pilot Projects Increasing the Impact of the NIH Centers for Advancing Research on Botanicals and Other Natural Products.

Date: March 17, 2023.

Time: 2:30 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Complementary and Integrative, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jessica M. McKlveen, Ph.D.. Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH, NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20892–547, *jessica.mcklveen@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: February 14, 2023.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–03411 Filed 2–16–23; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Primate Aging Database.

Date: March 9, 2023.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kaitlyn Noel Lewis Hardell, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute on Aging, 7201 Wisconsin Avenue, Gateway Building, Suite 2W200, Bethesda, MD 20892, (301) 555–1234, *kaitlyn.hardell@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 14, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–03454 Filed 2–16–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Coordinating Center for the Population Dynamics Center Research Infrastructure Program.

Date: February 27, 2023.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2121B, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Christiane M. Robbins, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2121B, Bethesda, MD 20817, (301) 451–4989, *crobbins@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; NICHD Global Network for Women's and Children's Health Research: Research Units.

Date: March 27, 2023.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2121B, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Kimberly L. Houston, MD, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health & Human Development, National Institutes of Health, 6710B Rockledge Drive, Rm 2121B, Bethesda, MD 20892, (301) 827–4902, *kimberly.houston@nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Reproductive Scientist Development Program (K12 Clinical Trial Not Allowed).

Date: March 31, 2023.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2121B, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Christiane M. Robbins, Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2121B, Bethesda, MD 20817, (301) 451–4989, *crobbins@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Learning Disabilities Research Centers.

Date: April 4–5, 2023.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Eunice Kennedy Shriver National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2127B, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Chi-Tso Chiu, Ph.D., Scientific Review Officer, Scientific Review Branch (SRB), Eunice Kennedy Shriver National Institute of Child Health & Human Development, National Institutes of Health, 6710B Rockledge Drive, Rm 2127B, Bethesda, MD 20817, (301) 435–7486, *chiuc@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.865, Research for Mothers and Children, National Institutes of Health, HHS)

Dated: February 13, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–03343 Filed 2–16–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002]

Final Flood Hazard Determinations; Correction

AGENCY: Federal Emergency Management Agency; Department of Homeland Security.

ACTION: Notice; correction.

SUMMARY: On November 28, 2022, FEMA published in the **Federal Register** a final flood hazard determination notice that contained an erroneous table. This notice provides corrections to that table to be used in lieu of the erroneous information. The table provided here represents the final flood hazard determinations and communities affected for Gallatin County, Kentucky and Incorporated Areas.

DATES: The date of March 21, 2023 has been established for the Flood Insurance Rate Map (FIRM), and where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov*; or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Correction

In the final flood hazard determination notice published at 87 FR 73021 in the November 28, 2022 issue of the **Federal Register**, FEMA published a table titled Gallatin County, Kentucky and Incorporated Areas. This table contained inaccurate information as to communities affected by the final flood hazard determinations featured in the table. In this document, FEMA is publishing a table containing the accurate information. The information provided below should be used in lieu of that previously published.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Gallatin County, Kentucky and Incorporated Areas Docket No.: FEMA–B–2185	
City of Glencoe	Gallatin County Courthouse, 200 Washington Street, Warsaw, KY 41095.
City of Warsaw	Gallatin County Courthouse, 200 Washington Street, Warsaw, KY 41095.
Unincorporated Areas of Gallatin County	Gallatin County Courthouse, 200 Washington Street, Warsaw, KY 41095.

[FR Doc. 2023–03394 Filed 2–16–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002; Internal Agency Docket No. FEMA–B–2310]

Proposed Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Comments are requested on proposed flood hazard determinations, which may include additions or modifications of any Base Flood Elevation (BFE), base flood depth, Special Flood Hazard Area (SFHA) boundary or zone designation, or regulatory floodway on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports for the communities listed in the table below. The purpose of this notice is to seek general information and comment regarding the preliminary FIRM, and where applicable, the FIS report that the Federal Emergency Management Agency (FEMA) has provided to the affected communities. The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: Comments are to be submitted on or before May 18, 2023.

ADDRESSES: The Preliminary FIRM, and where applicable, the FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

You may submit comments, identified by Docket No. FEMA–B–2310, to Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: FEMA proposes to make flood hazard determinations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. These flood hazard determinations are used to meet the floodplain management requirements of the NFIP.

The communities affected by the flood hazard determinations are provided in the tables below. Any request for reconsideration of the revised flood hazard information shown on the Preliminary FIRM and FIS report that satisfies the data requirements outlined in 44 CFR 67.6(b) is considered an appeal. Comments unrelated to the flood hazard determinations also will be considered before the FIRM and FIS report become effective.

Use of a Scientific Resolution Panel (SRP) is available to communities in support of the appeal resolution process. SRPs are independent panels of experts in hydrology, hydraulics, and other pertinent sciences established to review conflicting scientific and technical data and provide recommendations for resolution. Use of the SRP only may be exercised after FEMA and local communities have been engaged in a collaborative consultation process for at least 60 days without a mutually acceptable resolution of an appeal. Additional information regarding the SRP process can be found online at *https://www.floodsrp.org/pdfs/srp_overview.pdf.*

The watersheds and/or communities affected are listed in the tables below. The Preliminary FIRM, and where applicable, FIS report for each community are available for inspection at both the online location *https://hazards.fema.gov/femaportal/prelimdownload* and the respective Community Map Repository address listed in the tables. For communities with multiple ongoing Preliminary

studies, the studies can be identified by the unique project number and Preliminary FIRM date listed in the tables. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Sullivan County, Tennessee and Incorporated Areas Project: 20–04–0043S Preliminary Date: July 28, 2021	
City of Bristol	City Hall Annex, 104 8th Street, Bristol, TN 37620.
City of Kingsport	City Hall, 415 Broad Street, Kingsport, TN 37660.
Unincorporated Areas of Sullivan County	Sullivan County Planning and Zoning, 3425 Highway 126, Suite 101, Blountville, TN 37617.

[FR Doc. 2023–03393 Filed 2–16–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2341A2100DD/AAKC001030/ A0A501010.999900; OMB Control Number 1076–0193]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Education Contracts Under the Johnson-O'Malley Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Information Collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Education (BIE) are proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before March 20, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection request (ICR) should be sent within 30 days of publication of this notice to the Office of Information and Regulatory Affairs (OIRA) through *https://www.reginfo.gov/public/do/PRA/icrPublicCommentRequest?ref_nbr=202302-1076-003* or by visiting *https://www.reginfo.gov/public/do/PRAMain* and selecting ''Currently under Review—Open for Public Comments'' and then scrolling down to the ''Department of the Interior.''

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Steven Mullen, Information Collection Clearance Officer, Office of Regulatory Affairs and Collaborative Action—Indian Affairs, U.S. Department of the Interior, 1001 Indian School Road NW, Suite 229, Albuquerque, New Mexico 87104; *comments@bia.gov;* (202) 924–2650. 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. You may also view the ICR at *https://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=1076-0193.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on July 22, 2022 (87 FR 43889). No comments were received.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The regulations at 25 CFR 273, Subpart E, implement in section 7(c) Contracting Party Student Count Reporting Compliance, of the Johnson-O'Malley Supplemental Indian Education Program Modernization Act (JOM Modernization Act). These regulations require the BIE to implement an annual reporting requirement for existing JOM contractors to report a student count served by each contracting party, and an accounting of the amounts and purposes for which the contract funds were expended. The information received from the annual reporting requirements of the contractor will allow the Secretary to provide an annual report, including the most recent determination of the number of eligible Indian students served by each contracting

party, recommendation on appropriate funding levels, and an assessment of the contracts receiving JOM contracts, to the appropriate Committee and Subcommittees in the Senate and of the House of Representatives.

Proposed Revisions

BIA proposes to revise the information collection to incorporate changes in program frequency; as well as efficiency gains through reducing redundancy. BIA proposes to revise the Estimated Annual Time Burden from 11,450 to 11,400 hours; and Estimated Annual Number of Responses from 1,197 to 1,084.

Title of Collection: Education Contracts under the Johnson-O'Malley Act.

OMB Control Number: 1076–0193.

Form Number: None.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Tribal organizations, States, public school districts, Indian corporations.

Total Estimated Number of Annual Respondents: 1,084.

Total Estimated Number of Annual Responses: 1,084.

Estimated Completion Time per Response: Ranges from 1 to 80 hours.

Total Estimated Number of Annual Burden Hours: 11,400.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Annually.

Total Estimated Annual Nonhour Burden Cost: $0.

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.*).

Steven Mullen,

Information Collection Clearance Officer, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2023–03356 Filed 2–16–23; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM931000 L51010000.PQ0000 LVRWG22G0690 22XL5017AP]

Notice of Availability of the Proposed Resource Management Plan Amendment and Final Environmental Impact Statement for the SunZia Southwest Transmission Project Right-of-Way Amendment, New Mexico and Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended (FLMPA), the Bureau of Land Management (BLM) has prepared a Proposed Resource Management Plan (RMP) Amendment and Final Environmental Impact Statement (EIS) for the SunZia Southwest Transmission Project Right-of-Way Amendment and by this notice is announcing the start of a 30-day protest period of the Proposed RMP Amendment.

DATES: This notice announces the beginning of a 30-day protest period to the BLM on the Proposed RMP Amendment. Protests must be postmarked or electronically submitted on the BLM's ePlanning site within 30 days of 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: The Proposed RMP Amendment and Final EIS is available on the BLM ePlanning project website at *http://ow.ly/HEkm50MxXbG.* Documents pertinent to this proposal may be examined online at *http://ow.ly/HEkm50MxXbG* and at the BLM New Mexico State Office, the BLM Arizona State Office, the BLM Las Cruces District Office, the BLM Socorro Field Office, the Safford BLM Field Office, the BLM Tucson Field Office, the Cibola National Forest Supervisor's Office, and the Sevilleta National Wildlife Refuge.

Instructions for filing a protest with the BLM for the SunZia Southwest Transmission Project Right-of-Way Amendment can be found at: *https://www.blm.gov/programs/planning-and-nepa/public-participation/filing-a-plan-protest* and at 43 CFR 1610.5–2.

FOR FURTHER INFORMATION CONTACT: Adrian Garcia, Project Manager, (505) 954–2199, *agarcia@blm.gov;* or Virginia Alguire, Assistant Field Manager, (575) 838–1290, *valguire@blm.gov;* 301 Dinosaur Trail, Santa Fe, New Mexico 87508. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Mr. Garcia. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The RMP amendment is being considered to allow the BLM to evaluate SunZia Transmission, LLC's application to amend its right-of-way grant for the SunZia Southwest Transmission Project (Project), which would require amending the existing Socorro Field Office RMP.

The proposed SunZia Southwest Transmission Project is composed of two planned 500-kilovolt transmission lines located across approximately 520 miles of Federal, state, and private lands between central New Mexico and central Arizona. The Project traverses Lincoln, Socorro, Sierra, Luna, Grant, Hidalgo, Valencia, and Torrance counties in New Mexico and Graham, Greenlee, Cochise, Pinal, and Pima counties in Arizona.

The proposed alternatives would not be in conformance with the Socorro RMP due to one of the following conditions: the right-of-way would cross an area designated in the RMP as right-of-way avoidance or exclusion, the right-of-way would cross a special designation, or the project would not comply with Visual Resource Management objectives. Plan amendments would be required for alternatives where no conforming alternatives could be developed that would meet the purpose and need of the project.

In addition to the alternative transmission line routes, two plan amendment alternatives have been identified for each of the affected RMPs, as follows:

- *No Action:* If no action is taken, then the right-of-way for the project would not be granted and no amendment to the affected RMP would be granted.
- *400-foot-wide right-of-way:* The affected RMP would be amended to designate a 400-foot-wide right-of-way for the proposed project through the BLM right-of-way avoidance areas and one exclusion area associated with an Area of Critical Environmental Concern. The Visual Resource Management

classes would be modified within the right-of-way. The Ladron Mountain-Devil's Backbone Complex Area of Critical Environmental Concern could be reduced by up to 4.7 acres to accommodate the right-of-way.

Minor deviations from the limits of the right-of-way may be required to accommodate site-specific considerations, and any new rights-of-way would be subject to case-by-case evaluations according to future project applications.

Purpose and Need for the Proposed Action

The BLM's purpose and need for Federal action is to respond to SunZia's application to amend its right-of-way grant (NM 114438) under title V of FLPMA consistent with applicable laws. In compliance with NEPA and FLPMA, the BLM New Mexico State Office has prepared an EIS to analyze the environmental impacts associated with SunZia's application. Proposed amendments to SunZia's right-of-way grant would require an amendment to the Socorro Field Office RMP, which the BLM has analyzed in the Final EIS. The U.S. Fish and Wildlife Service's purpose and need for Federal action is to respond to requests to co-locate the SunZia transmission line with existing transmission line easements across the Sevilleta National Wildlife Refuge. The U.S. Forest Service's purpose and need for Federal action is to respond to SunZia's application for a right-of-way to construct, operate, maintain, and decommission a transmission line on Federal lands. The Department of Energy's purpose and need for Federal action is to comply with its mandate under Title XVII of the Energy Policy Act of 2005 by selecting projects eligible for the Federal loan guarantee program established by the Act.

Proposed Action and Alternatives

The proposed action is for the BLM to amend the current right-of-way authorization to include proposed project components outside of the existing granted right-of-way for the construction, operation, maintenance, and decommissioning of the Project. The U.S. Fish and Wildlife Service and Cibola National Forest may need to issue new authorizations, depending on the alternatives under proposed Component 3, which includes a proposed, approximately 150-mile reroute of the 2015 Selected Route in Socorro, Valencia, and Torrance Counties, New Mexico. The permitted route originates at a planned substation in Torrance County, New Mexico, and terminates at the existing Pinal Central Substation in Pinal County, Arizona. The Project traverses Lincoln, Socorro, Sierra, Luna, Grant, Hidalgo, Valencia, and Torrance counties in New Mexico and Graham, Greenlee, Cochise, Pinal, and Pima counties in Arizona. The route has four segments:

- *Segment 1:* Pinal Central Substation to Willow 500-kilovolt Substation;
- *Segment 2:* Willow 500-kilovolt Substation to SunZia South Substation (Segment 2a in Arizona, Segment 2b in New Mexico);
- *Segment 3:* SunZia South Substation to New Mexico Institute of Mining and Technology; and
- *Segment 4:* New Mexico Institute of Mining and Technology to SunZia East Substation.

Prior environmental documents include a Final EIS in 2013, a subsequent Environmental Assessment and Finding of No New Significant Impact in 2015 to accommodate burial of approximately five miles of the transmission line in three locations within the White Sands Missile Range Northern Call-Up Area, and a Record of Decision in 2015. The BLM issued a right-of-way grant to SunZia in 2016, authorizing use of a 400-foot-wide right-of-way across 183 miles of public lands administered by the BLM. Construction of the lines has not begun.

SunZia is proposing to amend the existing grant in four components:

- *Component 1—Localized Route Modifications:* Consists of proposed modifications of the 2015 Selected Route in six localized areas in Segments 1, 2, and 3 in Pinal County, Arizona and Hidalgo, Luna, Sierra, and Socorro Counties, New Mexico. After the right-of-way grant was issued in September 2016, and pursuant to the requirements in the BLM's 2015 Record of Decision, subsequent ground-controlled surveys and engineering were conducted in conjunction with environmental resource surveys to refine locations of project facilities and refine the limits of the transmission line right-of-way alignment. Route Modifications 1–5 are located on public lands administered by the BLM and are proposed due to inability to obtain private rights-of-way or easements, changes in land use, or physical constraints. Route Modification 6 includes route modifications on private and state lands.
- *Component 2—Access Roads and Temporary Work Areas Outside the Granted Right-of-Way:* Includes access roads that are on public lands administered by the BLM outside the existing 400-foot-wide granted right-of way. Access roads for construction, operation, and maintenance of the transmission lines were planned within the 400-foot-wide right-of-way as much as practicable. However, access to the right-of-way, constraints due to steep or rugged terrain, and avoidance of sensitive resources may necessitate the use of roads outside the 400-foot-wide granted right-of-way. In Segments 1, 2, and 3, temporary work areas, or portions of, are outside the 400-foot-wide granted right-of-way for the 2015 Selected Route, requiring short-term rights-of-way for temporary use. Temporary work areas include structure work areas, construction yards, and wire pulling/tensioning/splicing areas.
- *Component 3—Segment 4 Reroute:* SunZia has opted to pursue potential alternative routes that would relocate the Project's proposed transmission line and associated facilities outside the White Sands Missile Range Northern Call-Up Area, take advantage of an opportunity to partially parallel the Western Spirit 345-kilovolt Transmission Project, and move the eastern substation closer to proposed wind-generation projects. SunZia is considering three alternative routes.

The three alternative routes are:

- *Alternative Route 1:* Crosses public lands administered by the BLM, Cibola National Forest lands managed by the U.S. Forest Service, and private and state managed lands. All Alternative Route 1 sub routes would cross 0.1 mile of the Ladron Mountain-Devil's Backbone Complex Area of Critical Environmental Concern using Local Alternative 1A–7.
- *Alternative Route 2:* Crosses public lands administered by the BLM, the Sevilleta National Wildlife Refuge managed by the U.S. Fish and Wildlife Service, and private and state managed lands. The Alternative would co-locate within existing transmission line corridors that pass north-south through National Wildlife Refuge System land. Where Alternative Route 2 would cross the Sevilleta National Wildlife Refuge, the easement width would be reduced to 100 feet to conform with the existing El Paso Electric 345-kilovolt transmission line easement. Alternative Routes 2A–1 and 2A–4 would cross the Rio Grande immediately to the south of the constructed Western Spirit Project 345-kilovolt transmission line.
- *Alternative Route 3:* Alternative Route 3 would cross public lands administered by the BLM, the Sevilleta National Wildlife Refuge managed by the U.S Fish and Wildlife Service, and private and state managed lands. The alternative would co-locate within existing transmission line corridors that pass north-south through National Wildlife Refuge System land. Where Alternative Route 3 would cross the

Sevilleta National Wildlife Refuge, the easement width would be reduced to 50 feet to conform with the existing Tri-State 115-kilovolt transmission line easement.

Both Alternatives 2 and 3 would be required for the Project. Additionally, the BLM has considered and analyzed additional route alternatives identified through public scoping, Title 41 of the Fixing America's Surface Transportation Act, and Nation-to-Nation consultation with Indian Tribes.

• *Component 4—SunZia West Substation:* SunZia also identified the need for a high voltage direct current converter station (SunZia West Substation) at a newly identified alternate location for the west-end receiving terminal in Arizona east of Red Rock. The revised location of the high voltage direct current converter station is needed because operation and interconnection capabilities for the west-end high voltage direct current receiving terminal could be better served at a dedicated and separate site. The southern portion of the current siting area (20–22 acres) for the SunZia West Substation overlaps with the permitted 400-foot-wide right-of-way and is located entirely on Arizona State Trust Land just east of Red Rock, Arizona. No Federal authorization is needed for the southern portion. Adjustment of the permitted right-of-way would be addressed with the State of Arizona. The total siting area is approximately 80.7 acres.

The BLM analyzed SunZia's proposed amendments and alternatives to the reroute of Segment 4 in the Final EIS. The BLM also considered a no action alternative in the Final EIS (*i.e.,* the BLM and other Federal agencies would not approve the localized route modifications, access roads and temporary work areas outside the granted right-of-way, the Segment 4 reroute, and the new location for the SunZia West Substation).

Agency-Proposed Alternative

The BLM has identified parts of the four proposed Project components as the agency's Proposed Alternative. The agency's Proposed Alternative is as follows:

• *Component 1:* Localized route modifications 1–5, and the 2015 Selected Route (the no action alternative in the Final EIS) for local route modification 6 in the Pinal Central area;

• *Component 2:* All access roads and temporary workspaces outside the granted right-of-way;

• *Component 3:* Alternative Route 2 (Subroute 2A–1) and Alternative Route 3 (Subroute 3A–1), which include crossing the Sevilleta National Wildlife Refuge as well as co-locating the proposed SunZia Transmission Line with the Western Spirit 345-kilovolt Transmission Line at the Rio Grande crossing. For Subroute 3A–1, the agency Proposed Alternative includes Local Alternative 3B–2 to avoid two private residences near the Project; and

• *Component 4:* The 2015 Selected Alternative.

Public Input Received

A Notice of Availability of the Draft EIS for the proposed Project was published in the **Federal Register** on May 2, 2022 (87 FR 25653). Three virtual public meetings were held during the 90-day comment period. The BLM received 125 public comment documents during the comment period. The documents contained 609 individual comments with 36 substantive comments.

Comments on the Draft EIS received from the public and internal BLM review were considered and incorporated as appropriate into the Final EIS. Public comments resulted in the addition of clarifying text but did not significantly change proposed decisions.

Protest of the Proposed RMP Amendment

BLM planning regulations state that any person who participated in the preparation of the RMP and has an interest that will or might be adversely affected by approval of the Proposed RMP Amendment may protest its approval to the BLM. Protest on the Proposed RMP Amendment constitutes the final opportunity for administrative review of the proposed land use planning decisions prior to the BLM adopting an approved RMP Amendment. Instructions for filing a protest with the BLM regarding the Proposed RMP Amendment may be found online (see **ADDRESSES**). All protests must be in writing and mailed to the appropriate address or submitted electronically through the BLM ePlanning project website (see **ADDRESSES**). Protests submitted electronically by any means other than the ePlanning project website or by fax will be invalid unless a hard copy of the protest is also submitted. The BLM will render a written decision on each protest. The protest decision of the BLM shall be the final decision of the Department of the Interior. Responses to valid protest issues will be compiled and documented in a Protest Resolution Report made available following the protest resolution online at: *https://www.blm.gov/programs/planning-and-nepa/public-participation/protest-resolution-reports.* Upon resolution of protests, the BLM will issue a Record of Decision and Approved RMP Amendment.

Before including your phone number, email address, or other personal identifying information in your protest, you should be aware that your entire protest—including your personal identifying information—may be made publicly available at any time. While you can ask us in your protest to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2; 43 CFR 1610.5.)

Melanie G. Barnes,

State Director.

[FR Doc. 2023–03299 Filed 2–16–23; 8:45 am]

BILLING CODE 4331–23–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLAK940000 L14100000.HM0000 234; OMB Control No. 1004–0216]

Agency Information Collection Activities; Alaska Native Vietnam-Era Veterans Allotments

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) proposes to renew an information collection.

DATES: Interested persons are invited to submit comments on or before April 18, 2023.

ADDRESSES: Send your written comments on this information collection request (ICR) by mail to Darrin King, Information Collection Clearance Officer, U.S. Department of the Interior, Bureau of Land Management, Attention PRA Office, 440 W 200 S #500, Salt Lake City, UT 84101; or by email to *BLM_HQ_PRA_Comments@blm.gov.* Please reference Office of Management and Budget (OMB) Control Number 1004–0216 in the subject line of your comments. Please note that the electronic submission of comments is recommended.

FOR FURTHER INFORMATION CONTACT: To request additional information about this Information Collection Request

(ICR), contact Steven N. Scordino, by email at *steven.scordino@sol.doi.gov,* or by telephone at 907–271–4204. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 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 the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of 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 the agency might 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, *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 information that is collected under this OMB Control Number enables the BLM to collect information related to Native veteran land allotment applications. The authority for this Program is section 1119 of the John D. Dingell, Jr. Conservation, Management, and Recreation Act of March 12, 2019, Public Law 116–9, codified at 43 U.S.C. 1629g–1 . This OMB Control Number is currently scheduled to expire on November 30, 2023. The BLM plans to request that OMB renew this OMB Control Number for an additional three years.

Title of Collection: Alaska Native Vietnam-Era Veterans Allotments (43 CFR 2569).

OMB Control Number: 1004–0216.

Form Numbers: Alaska Native Vietnam-Era Veterans Allotments Application, AK 2569–10.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals and State/Local/Tribal governments.

Total Estimated Number of Annual Respondents: 1,265.

Total Estimated Number of Annual Responses: 1,265.

Estimated Completion Time per Response: Varies from 4.5 hours to 30 minutes per response.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Total Estimated Number of Annual Hours: 3,828.

Total Estimated Annual Nonhour Burden Cost: $55,000.

An agency may not conduct or sponsor and, notwithstanding any other provision of law, 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.*).

Darrin A. King,

Information Collection Clearance Officer.

[FR Doc. 2023–03412 Filed 2–16–23; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–OIA–DTS–35126; PPWODIREI0–PIN00IO15.XI0000–234P104215]

Submission of U.S. Nomination to the World Heritage List

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior has submitted a nomination to the World Heritage List for ''Moravian Church Settlements,'' jointly with the governments of Germany and the United Kingdom. It consists of the main part of the Historic Moravian Bethlehem National Historic Landmark District in Bethlehem, Pennsylvania, as well as Moravian settlements in Herrnhut, Germany, and Gracehill in the United Kingdom. This is the third notice required by the Department of the Interior's World Heritage Program regulations.

ADDRESSES: To request paper copies of documents discussed in this notice, contact April Brooks, Office of International Affairs, National Park Service, 1849 C St. NW, Room 2415, Washington, DC 20240 (202) 354–1808, or sending electronic mail (Email) to: *april_brooks@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen Morris, Chief, Office of International Affairs at (202) 354–1803 or Jonathan Putnam, International Cooperation Specialist, at (202) 354–1809. Complete information about U.S. participation in the World Heritage Program and the process used to develop the U.S. World Heritage Tentative List is posted on the National Park Service, Office of International Affairs website at: *https://www.nps.gov/subjects/internationalcooperation/worldheritage.htm.*

SUPPLEMENTARY INFORMATION: This constitutes the official notice of the decision by the United States Department of the Interior to submit a nomination to the World Heritage List for ''Moravian Church Settlements,'' as enumerated in the Summary above, and serves as the Third Notice referred to in 36 CFR 73.7(j) of the World Heritage Program regulations (36 CFR part 73).

The nomination was submitted through the U.S. Department of State to the World Heritage Centre of the United Nations Educational, Scientific and Cultural Organization (UNESCO) for consideration by the World Heritage Committee, which will likely occur at

the Committee's 45th annual session in mid-2024.

This property has been selected from the U.S. World Heritage Tentative List, which comprises properties that appear to qualify for World Heritage status, and which may be considered for nomination by the United States to the World Heritage List, as required by the World Heritage Committee's *Operational Guidelines.*

The U.S. World Heritage Tentative List appeared in a **Federal Register** notice on January 11, 2021 (86 FR 1999), as required by 36 CFR 73.7(c)) with a request for public comment on possible nominations from the 19 sites on the Tentative List. A summary of the comments received, the Department of the Interior's responses to them and the Department's decision to request preparation of this nomination appeared in a subsequent **Federal Register** notice published on February 1, 2022 (87 FR 5498–5499). These are the First and Second Notices required by 36 CFR 73.7(c) and (f).

In making the decision to submit this U.S. World Heritage nomination, pursuant to 36 CFR 73.7(h) and (i), the Department's Assistant Secretary for Fish and Wildlife and Parks evaluated the draft nomination and the recommendations of the Federal Interagency Panel for World Heritage. She determined that the property meets the prerequisites for nomination by the United States to the World Heritage List that are detailed in 36 CFR part 73. The properties are nationally significant, being part of a National Historic Landmark district designated by the Department of the Interior. The owners of the properties have concurred in writing with the nomination, and each property is well protected legally and functionally as documented in the nomination. It appears to meet two of the World Heritage criteria for cultural properties.

''Moravian Church Settlements'' are nominated under World Heritage cultural criteria (iii) and (iv), as provided in 36 CFR 73.9(b)(1), as a group, or ''series,'' that collectively appears to justify criterion (iii) as an exceptional testimony to the Moravian Church's distinct religious and social ideals which are expressed in the towns' layouts, architecture, and craftsmanship, as well as the fact that numerous buildings are still used either for their original function or the continuation of Moravian Church activities and traditions. The series also justifies criterion (iv) as an outstanding example of intentional religious town planning within the Protestant tradition; each settlement bears witness to the Moravian Church vision of a unified and coherent urban design, inspired by ancient and biblical concepts of the 'ideal city' and anticipating Enlightenment ideals of equality and social improvement that became a reality only much later in many places. The settlements, both individually and as a group, also meet the World Heritage requirements for integrity and authenticity.

The World Heritage List is an international list of cultural and natural properties nominated by the signatories to the World Heritage Convention (1972). The World Heritage Committee, composed of representatives of 21 nations elected as the governing body of the World Heritage Convention, makes the final decisions on which nominations to accept on the World Heritage List at its annual meeting each summer. Although the United States is not a member of UNESCO, it continues to participate in the World Heritage Convention, which is an independent treaty. There are 1,154 World Heritage sites in 167 of the 194 signatory countries. The United States has 24 sites inscribed on the World Heritage List.

U.S. participation and the role of the Department of the Interior are authorized by title IV of the National Historic Preservation Act Amendments of 1980, Public Law 96–515, 94 Stat. 2987, 3000, codified as amended at 54 U.S.C. 307101, and conducted by the Department through the National Park Service in accordance with the regulations at 36 CFR part 73 which implement the Convention pursuant to the 1980 Amendments.

Neither inclusion in the Tentative List nor inscription as a World Heritage Site imposes legal restrictions on owners or neighbors of sites, nor do they give the United Nations any management authority or ownership rights in U.S. World Heritage Sites, which continue to be subject only to U.S. federal and local laws, as applicable.

Authority: 54 U.S.C. 307101; 36 CFR part 73.

Shannon A. Estenoz,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2023–03327 Filed 2–16–23; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2023–0011]

Notice of Availability of a Draft Environmental Impact Statement for SouthCoast Wind Energy, LLC's (Formerly Mayflower Wind Energy, LLC) Proposed Wind Energy Facility Offshore Massachusetts

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: BOEM announces the availability of the draft environmental impact statement (DEIS) for the construction and operations plan (COP) submitted by SouthCoast Wind Energy, LLC (SouthCoast Wind) for its proposed SouthCoast Wind Project (Project) offshore Massachusetts. The DEIS analyzes the potential environmental impacts of the Project as described in the COP (the proposed action) and the alternatives to the proposed action. This notice of availability (NOA) announces the start of the public review and comment period, as well as the dates and times for public hearings on the DEIS. After BOEM holds the public hearings and addresses comments provided, BOEM will publish a final environmental impact statement (EIS). The EIS will inform BOEM's decision whether to approve, approve with modifications, or disapprove the COP.

DATES: Comments must be received no later than April 3, 2023. BOEM will conduct three virtual public hearings. BOEM's virtual public hearings will be held on the following dates at the times (eastern time) indicated:

- Monday, March 20, 2023; 5 p.m.
- Wednesday, March 22, 2023; 1 p.m.
- Monday, March 27, 2023; 5 p.m.

Registration for the virtual public hearings is required and may be completed at *https://www.boem.gov/renewable-energy/state-activities/southcoast-wind* or by calling (703) 787–1532. Meeting information will be sent to registrants via their email address provided during registration.

ADDRESSES: The DEIS and detailed information about the Project, including the COP, can be found on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/southcoast-wind.* Comments can be submitted in any of the following ways:

- Orally or in written form during any of the virtual public hearings identified in this NOA.
- In written form by mail or any other delivery service, enclosed in an

envelope labeled ''SouthCoast Wind DEIS'' and addressed to Chief, Office of Renewable Energy Programs, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, VA 20166.

• Through the *regulations.gov* web portal: Navigate to *http://www.regulations.gov* and search for Docket No. BOEM–2023–0011. Click on the ''Comment'' button below the document link. Enter your information and comment, then click ''Submit Comment.''

For more information about submitting comments, please see ''*Information on Submitting Comments*'' under the **SUPPLEMENTARY INFORMATION** heading below.

FOR FURTHER INFORMATION CONTACT: Jessica Stromberg, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, Sterling, Virginia 20166, (703) 787–1722 or *jessica.stromberg@boem.gov.*

SUPPLEMENTARY INFORMATION:

Proposed Action: SouthCoast Wind seeks approval to construct, own, operate, and maintain the Project: a wind energy facility and its associated export cables on the Outer Continental Shelf (OCS) offshore Massachusetts. The Project would be developed within the range of design parameters outlined in the SouthCoast Wind COP, subject to applicable mitigation measures.

The Project would be located about 26 nautical miles (nm) (48 kilometers) south of Martha's Vineyard and 20 nm (37 kilometers) south of Nantucket in the area defined in BOEM's renewable energy lease OCS–A 0521 (Leased Area). The Leased Area covers approximately 127,388 acres. The Project would comprise up to 149 positions in the Leased Area to be occupied by up to 147 wind turbine generators and up to 5 offshore substation platforms. The 149 positions will conform to a 1 nm x 1 nm grid layout with an east-west and north-south orientation, which lessees agreed will apply across all the Massachusetts and Rhode Island wind energy areas. The Project would include two export cable corridors. One corridor would be used by multiple export cables making landfall and interconnecting to the ISO New England Inc. grid in Falmouth, Massachusetts. The other corridor would be used by multiple export cables making landfall and interconnecting to the ISO New England Inc. grid at Brayton Point in Somerset, Massachusetts.

Alternatives: BOEM considered 17 alternatives when preparing the DEIS and carried forward 6 alternatives for further analysis in the DEIS. These six alternatives include five action alternatives and the no action alternative. BOEM did not analyze in detail 11 of the alternatives because they did not meet the purpose and need for the proposed action or did not meet screening criteria, which are presented in chapter 2 of the DEIS. The screening criteria included consistency with law and regulations, technical and economic feasibility, environmental impact, and geographic considerations.

Availability of the DEIS: The DEIS, COP, and associated information are available on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/southcoast-wind.* BOEM has distributed digital copies of the DEIS to all parties listed in the DEIS appendix M, which also includes the location of all libraries receiving a copy. If you require a digital copy on a flash drive or paper copy, BOEM will provide one upon request, if supplies are available. You may request a flash drive or paper copy of the DEIS by calling (703) 787–1532.

Cooperating Agencies: The following eight Federal agencies and State governmental entities participated as cooperating agencies in the preparation of the DEIS: Bureau of Safety and Environmental Enforcement; U.S. Environmental Protection Agency; National Marine Fisheries Service; U.S. Army Corps of Engineers; U.S. Coast Guard; Massachusetts Office of Coastal Zone Management; Rhode Island Coastal Resources Management Council; and New York State Department of State.

Information on Submitting Comments: BOEM does not consider anonymous comments. Please include your name and address as part of your comment. BOEM makes your comment, including your name and address, available for public review online and during regular business hours. You may request that BOEM withhold your name, address, or any other personally identifiable information (PII) included in your comment from the public record; however, BOEM cannot guarantee that it will be able to do so. If you wish your name, address, or other PII to be withheld, you must state your request prominently in a cover letter and explain the harm that you fear from its disclosure such as unwarranted privacy invasion, embarrassment, or injury. Even if BOEM withholds your information in the context of this notice, your comment is subject to the Freedom of Information Act (FOIA) and any relevant court orders. If your comment is requested under FOIA or a relevant court order, your information will only be withheld if a determination is made that one of the FOIA's exemptions to disclosure applies or if the relevant court order is challenged. Such a determination will be made in accordance with the Department of the Interior's FOIA regulations and applicable law.

Please label privileged or confidential information as ''Contains Confidential Information,'' and consider submitting such information as a separate attachment. Information that is not labeled as privileged or confidential may be regarded by BOEM as suitable for public release.

All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public inspection in their entirety.

Authority: 42 U.S.C. 4231 *et seq.* (NEPA, as amended) and 40 CFR 1506.6.

Karen Baker,

Chief, Office of Renewable Energy Programs, Bureau of Ocean Energy Management.

[FR Doc. 2023–03271 Filed 2–16–23; 8:45 am]

BILLING CODE 4340–98–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–684 and 731–TA–1597–1598 (Preliminary)]

Gas Powered Pressure Washers From China and Vietnam

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of gas powered pressure washers from China and Vietnam, provided for in subheading 8424.30.90 and 8424.90.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (''LTFV'') and to be subsidized by the government of China.[2]

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] 88 FR 4807 and 88 FR4812 (January 25, 2023).

notice of scheduling, which will be published in the **Federal Register** as provided in § 207.21 of the Commission's rules, upon notice from the U.S. Department of Commerce (''Commerce'') of affirmative preliminary determinations in the investigations under §§ 703(b) or 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under §§ 705(a) or 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On December 30, 2022, FNA Group, Inc., Pleasant Prairie, Wisconsin filed petitions with the Commission and Commerce, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of gas powered pressure washers from China and LTFV imports of gas powered pressure washers from China and Vietnam. Accordingly, effective December 30, 2022, the Commission instituted countervailing duty investigation No.701–TA–684 and antidumping duty investigation Nos. 731–TA–1597–1598 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference 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** of January 6, 2023 (88 FR 1093). The Commission conducted its conference on January 20, 2023. All persons who requested the opportunity were permitted to participate.

The Commission made these determinations pursuant to §§ 703(a) and 733(a) of the Act (19 U.S.C. 1671b(a) and 1673b(a)). It completed and filed its determinations in these investigations on February 13, 2023. The views of the Commission are contained in USITC Publication 5409 (February 2023), entitled *Gas Powered Pressure Washers from China and Vietnam: Investigation Nos. 701–TA–684 and 731–TA–1597–1598 (Preliminary).*

By order of the Commission.

Issued: February 14, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–03437 Filed 2–16–23; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1278]

Certain Radio Frequency Transmission Devices and Components Thereof; Notice of Commission Decision To Review in Part and, on Review, To Affirm a Final Initial Determination Finding No Violation of Section 337; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part a final initial determination (''FID'') of the presiding Chief Administrative Law Judge (''Chief ALJ'') finding no violation of section 337 of the Tariff Act of 1930 (''section 337''), as amended, in this investigation. On review, the Commission affirms with modification the FID's finding of no violation of section 337. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On September 2, 2021, the Commission instituted this investigation under section 337 based on a complaint filed by Zebra Technologies Corporation of Lincolnshire, Illinois (''Complainant''). *See* 86 FR 49344–45 (Sept. 2, 2021). The complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain radio frequency transmission devices and components thereof by reason of infringement of claims 1, 3–8, 10, 11, and 13–16 of U.S. Patent No. 6,895,219 (''the '219 patent'') and claims 17–19 of U.S. Patent No. 7,683,788 (''the '788 patent'') (collectively, the ''Asserted Patents''). *See id.* The notice of investigation names OnAsset Intelligence, Inc. of Irving, Texas (''Respondent'') as the respondent in the investigation. *See id.* The Office of Unfair Import Investigations is not a party to the investigation. *See id.*

On May 31, 2022, the Commission partially terminated the investigation as to claims 7, 8, and 16 of the '219 patent based on the withdrawal of the allegations in the complaint as to those claims. *See* Order No. 20 (May 2, 2022), *unreviewed by* Comm'n Notice (May 31, 2022).

On September 16, 2022, the Chief ALJ issued the FID finding no violation of section 337. Specifically, the FID finds that Complainant failed to establish infringement of the Asserted Patents by the Respondent. The FID also finds that claims 17 and 18 (but not claim 19) of the '788 patent are invalid as anticipated by U.S. Patent No. 7,193,504 (''Carrender I'') (RX–132). The FID further finds that the domestic industry requirement is satisfied with respect to the '788 patent. The FID does not reach invalidity and the domestic industry requirement as to the '219 patent.

The FID also includes a Recommended Determination (''RD'') recommending, should the Commission find a violation of section 337, that the Commission issue: (1) a limited exclusion order against radio frequency transmission devices and components thereof that are imported into the United States, sold for importation, or sold within the United States after importation by or on behalf of the Respondent; and (2) a cease and desist order against the Respondent. The RD further recommends that the Commission set no bond during the period of Presidential review.

On September 30, 2022, Complainant filed a petition for Commission review of the FID. As to the '788 patent, Complainant requests Commission review with respect to the FID's findings concerning: (1) claim construction; (2) non-infringement; (3) invalidity of claims 17 and 18; and (4) contingently, the domestic industry findings as to one of Complainant's domestic industry products. As to the '219 patent, Complainant does not challenge the

FID's findings but requests vacatur of such findings in view of the impending expiration of that patent on January 27, 2023.

On October 11, 2022, Respondent filed a response to Complainant's petition. The parties did not file a statement on the public interest pursuant to Commission Rule 210.50 (19 CFR 210.50). Nor has the Commission received any submission in response to its post-RD **Federal Register** notice. *See* 87 FR 65249–50 (Oct. 28, 2022).

Having examined the record of this investigation, including the FID and the parties' submissions, the Commission has determined to review the FID in part, and upon review, to affirm the FID's determination of no violation of section 337. Specifically, as explained in the Commission Opinion issued concurrently herewith, the Commission has determined to review and, on review, to vacate the FID's findings as to the '219 patent in view of the expiration of that patent during the pendency of the investigation. As to the '788 patent, the Commission has determined to review and, on review, to: (1) modify and supplement the FID's claim construction findings with respect to the term ''common reference frequency''; (2) affirm with modification the FID's non-infringement findings; (3) affirm with modification the FID's findings on the technical prong of the domestic industry requirement; (4) take no position as to the economic prong of the domestic industry requirement; and (5) reverse the FID's invalidity findings over Carrender I. The Commission adopts all findings in the FID that are not inconsistent with the Commission's determination.

The investigation is terminated.

The Commission's vote for this determination took place on February 13, 2023.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: February 13, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–03349 Filed 2–16–23; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–313–314, 317, and 379 (Fifth Review)]

Brass Sheet and Strip From France, Germany, Italy and Japan; Scheduling of Expedited Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of expedited reviews pursuant to the Tariff Act of 1930 (''the Act'') to determine whether revocation of the antidumping duty orders on brass sheet and strip from France, Germany, Italy and Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time.

DATES: December 6, 2022.

FOR FURTHER INFORMATION CONTACT: (Caitlyn Hendricks-Costello-(202) 205–2058), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On December 6, 2022, the Commission determined that the domestic interested party group response to its notice of institution (87 FR 53785, September 1, 2022) of the subject five-year reviews was adequate and that the respondent interested party group response was inadequate. The Commission did not find any other circumstances that would warrant conducting full reviews.[1] Accordingly, the Commission determined that it would conduct expedited reviews pursuant to section 751(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(3)).

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Staff report.—A staff report containing information concerning the subject matter of the reviews has been placed in the nonpublic record, and will be made available to persons on the Administrative Protective Order service list for these reviews on February 22, 2023. A public version will be issued thereafter, pursuant to § 207.62(d)(4) of the Commission's rules.

Written submissions.—As provided in § 207.62(d) of the Commission's rules, interested parties that are parties to the reviews and that have provided individually adequate responses to the notice of institution,[2] and any party other than an interested party to the reviews may file written comments with the Secretary on what determination the Commission should reach in the reviews. Comments are due on or before March 2, 2023 and may not contain new factual information. Any person that is neither a party to the five-year reviews nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the reviews by March 2, 2023. If comments contain business proprietary information (BPI), they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Determination.—The Commission has determined these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is

[1] A record of the Commissioners' votes and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's website.

[2] The Commission has found the responses submitted on behalf of Aurubis Buffalo, Inc., Heyco Metals, Inc., PMX Industries, Inc., and Wieland Holdings, Inc. to be individually adequate. Comments from other interested parties will not be accepted (*see* 19 CFR 207.62(d)(2)).

published pursuant to § 207.62 of the Commission's rules.

By order of the Commission.

Issued: February 14, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–03433 Filed 2–16–23; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1147]

Importer of Controlled Substances Application: Sigma Aldrich Company LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Sigma Aldrich Company LLC 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 March 20, 2023. Such persons may also file a written request for a hearing on the application on or before March 20, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 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 January 11, 2023, Sigma Aldrich Company LLC, 3500 Dekalb Street, Saint Louis, Missouri 63118–4103, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Cathinone	1235	I
Methcathinone	1237	I
Mephedrone (4-Methyl-N-methylcathinone)	1248	I
Gamma Hydroxybutyric Acid	2010	I
Tetrahydrocannabinols	7370	I
4-Bromo-2,5-dimethoxyamphetamine	7391	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
2,5-Dimethoxyamphetamine	7396	I
3,4-Methylenedioxyamphetamine	7400	I
3,4-Methylenedioxy-N-ethylamphetamine	7404	I
3,4-Methylenedioxymethamphetamine	7405	I
4-Methoxyamphetamine	7411	I
Dimethyltryptamine	7435	I
N-Benzylpiperazine	7493	I
Heroin	9200	I
Normorphine	9313	I
Amobarbital	2125	II
Secobarbital	2315	II
Nabilone	7379	II
Phencyclidine	7471	II
Ecgonine	9180	II
Ethylmorphine	9190	II
Levorphanol	9220	II
Meperidine	9230	II
Thebaine	9333	II
Opium, powdered	9639	II
Levo-alphacetylmethadol	9648	II

The company plans to import the listed controlled substances for sale to research facilities for drug testing and analysis. In reference to drug code 7370 (Tetrahydrocannabinols) the company plans to import synthetic Tetrahydrocannabinols. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–03402 Filed 2–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1148]

Bulk Manufacturer of Controlled Substances Application: Veranova, L.P.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Veranova, L.P. has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before April 18, 2023. Such persons may also file a written request for a hearing on the application on or before April 18, 2023.

ADDRESSES: The Drug Enforcement Administration (DEA) requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on January 5, 2023 Veranova, L.P., 25 Patton Road, Devens, Massachusetts 01434–3803, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Amphetamine	1100	II
Methylphenidate	1724	II
Nabilone	7379	II
Hydrocodone	9193	II
Levorphanol	9220	II
Thebaine	9333	II
Alfentanil	9737	II
Remifentanil	9739	II
Sufentanil	9740	II

The company plans to bulk manufacture the above controlled substances in order to support manufacturing and analytical testing activities at its other DEA-registered manufacturing facility. No other activities for these drug codes are authorized for this registration.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–03410 Filed 2–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1141]

Importer of Controlled Substances Application: Avant Biopharmaceuticals

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Avant Biopharmaceuticals 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 March 20, 2023. Such persons may also file a written request for a hearing on the application on or before March 20, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 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 November 16, 2023, Avant Biopharmaceuticals, 7220 Trade Street, San Diego, California 92121, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Marihuana Extract	7350	I
Marihuana	7360	I
Tetrahydrocannabinols	7370	I
Psilocybin	7437	I
Psilocyn	7438	I

The company plans to import the listed controlled substances for analytical or scientific purposes. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–03400 Filed 2–16–23; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 1140]

Importer of Controlled Substances Application: Mylan Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Mylan Inc. has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplemental Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants therefore, may file written comments on or objections to the issuance of the proposed registration on or before March 20, 2023. Such persons may also file a written request for a hearing on the application on or before March 20, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal,

which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *http://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 *http://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 December 2, 2022, Mylan Inc., 3711 Collins Ferry Road, Morgantown, West Virginia 26505–2362, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Amphetamine	1100	II
Methylphenidate	1724	II
Oxycodone	9143	II
Hydromorphone	9150	II
Methadone	9250	II
Morphine	9300	II
Fentanyl	9801	II

The company plans to import bulk active pharmaceutical ingredients for internal testing purposes only and finished dosage forms for analytical testing and distribution for clinical trials. No other activity for these drug codes is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2).

Authorization will not extend to the import of the Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–03395 Filed 2–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1138]

Importer of Controlled Substances Application: Persist AI Formulations Corp

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Persist Al Formulations Corp 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 March 20, 2023. Such persons may also file a written request for a hearing on the application on or before March 20, 2023.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 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 December 19, 2022, Persist AI Formulations Corp, 1100 Main Street, Suite 300–PB, Woodland, California 95695–3513, applied to be registered as an importer of the following basic class(es) of controlled substance(s).

Controlled substance	Drug code	Schedule
Psilocybin	7437	I

The company plans to import the listed controlled substance as bulk material for research and development activities. No other activities for these drug codes are authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of Food and Drug Administration-approved or non-approved finished dosage forms for commercial sale.

Matthew Strait,

Deputy Assistant Administrator.

[FR Doc. 2023–03386 Filed 2–16–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification to Partial Consent Decree Under the Clean Water Act

On February 13, 2023, the Department of Justice lodged a proposed Modification to Partial Consent Decree with the United States District Court for the Middle District of Pennsylvania in the lawsuit entitled *United States and Commonwealth of Pennsylvania Department of Environmental Protection* v. *Capital Region Water and the City of Harrisburg, PA,* Civil Action No. 1:15–cv–00291–CCC.

The United States and the Pennsylvania Department of Environmental Protection (''PADEP'') jointly filed this lawsuit in February 2015 against Capital Region Water (''CRW'') and the City of Harrisburg alleging violations of the Clean Water Act and the Pennsylvania Clean Streams Law. The complaint sought injunctive relief and civil penalties for alleged unpermitted discharges from the sewer system in Harrisburg, failure to prepare a Long-Term Control Plan in compliance with EPA's 1994 Combined Sewer Overflow Control Policy (''CSO Policy''), and failure to comply with other requirements of sewer and stormwater National Pollutant Discharge Elimination System (''NPDES'') permits. At the same time, the United States and PADEP also lodged a Partial Consent Decree that required CRW to perform injunctive relief to address the alleged

violations. The Partial Consent Decree resolved all claims against the City of Harrisburg and nearly all claims against CRW, except for claims regarding CRW's implementation of a Long-Term Control Plan and claims for civil penalties against CRW. The Partial Consent Decree became effective on August 24, 2015.

The Modification to Partial Consent Decree refines the 2015 Partial Consent Decree by requiring CRW to perform injunctive measures to ensure that the sewer system is capable of meeting capture goals in a Long-Term Control Plan. Those measures include, among other requirements, construction projects to help bring the sewer system to a functional baseline; public notification of combined sewer overflow events, including real-time monitoring of certain combined sewer outfalls, and submission of a Long-Term Control Plan that complies with EPA's CSO Policy no later than December 31, 2024. The Modification provides the same resolution as the 2015 Partial Consent Decree; it does not resolve claims regarding CRW's implementation of the Long-Term Control Plan and claims for civil penalties against CRW.

The publication of this notice opens a period for public comment on the Modification to Partial Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and Pennsylvania Department of Environmental Protection* v. *Capital Region Water and City of Harrisburg,* D.J. Ref. No. 90–5–1–1–10157. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the Modification to Partial Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Modification to Partial Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $22.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–03340 Filed 2–16–23; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Third Amended Consent Decree Under the Clean Water Act

On February 13, 2023, the Department of Justice lodged a proposed Third Amendment to the Consent Decree with the United States District Court for the Northern District of Ohio in the lawsuit entitled *United States* v. *City of Akron, Ohio, et al.,* Civil Action No. 09–cv–00272.

In this action the United States, and the State of Ohio in a cross-claim, sought civil penalties and injunctive relief for violations of the Clean Water Act, 33 U.S.C. 1251 *et seq.,* in connection with the City of Akron's (''Akron's'' or ''City's'') operation of its municipal wastewater treatment facility and sewer system. Under the Consent Decree, which was approved by the Court in January 2014, Akron was required to implement a comprehensive plan to address overflows from its combined sewer system and bypasses around secondary treatment at the wastewater treatment facility. That plan, known as the ''Long Term Control Plan Update'' (''LTCP Update''), which was approved by the United States in November 2011 and the State of Ohio in April 2012, sets forth specific projects that the City is required to implement, and identifies dates for completion of these projects.

The proposed amendment modifies provisions of the 2014 Consent Decree that are set forth in the City's LTCP Update. Specifically, the proposed amendment includes: (1) resizing a large tunnel (the Northside Interceptor Tunnel) from 23 million gallons (''MG'') to 10.3 MG; and (2) adding a new requirement for sewer separation at one of the City's combined sewer overflow discharge points that would otherwise be controlled by the Northside Interceptor Tunnel.

The publication of this notice opens a period for public comment on the proposed Third Amendment to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *City of Akron et al.,* D.J. Ref. No. 90–5–1–1–3144/2. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611.

During the public comment period, the proposed Third Amendment to the Consent Decree may be examined and downloaded at this Justice Department website: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Third Amended Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $3.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Patricia McKenna,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2023–03355 Filed 2–16–23; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: 22–007]

Name of Information Collection: Survey of the Use of NASA Earth Observation Data by States, Tribes, and Territories

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by April 18, 2023.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 60-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bill Edwards-Bodmer, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000, Washington, DC 20546, 757–864–3292, or *b.edwards-bodmer@nasa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

As part of a requirement from the CHIPS and Science Act of 2022 (Pub. L. 117–167, div. B, title VII, 10824, Aug. 9, 2022, 136 Stat. 1742) the NASA Administrator shall arrange for the conduct of a survey of the use of NASA Earth observation data by States, Tribal organizations, and territories. The collection of this information will enable the agency to understand how Earth observation data is used, how it might impact decision making, and where any gaps might exist.

II. Methods of Collection

Electronic, virtual focus groups, and in-person focus groups.

III. Data

Title: Survey of the Use of NASA Earth Observation Data by States, Tribes, and Territories.

OMB Number:

Type of review: New.

Affected Public: Officials representing states, tribes, and territories.

Estimated Annual Number of Activities: 2.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 2,000.

Estimated Time per Response: 1.25 hours (focus group + quantitative survey).

Estimated Total Annual Burden Hours: 2,500.

Estimated Total Annual Cost: $95,000.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

Cheryl Parker,

Federal Register Liaison Officer.

[FR Doc. 2023–03405 Filed 2–16–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2023–018]

Freedom of Information Act (FOIA) Advisory Committee; Solicitation for Committee Member Nominations

AGENCY: Office of Government Information Services (OGIS), National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: The National Archives and Records Administration (NARA) is soliciting nominations to fill a vacancy on the Freedom of Information Act (FOIA) Advisory Committee. We are seeking a representative outside of government who has significant expertise in FOIA. The new member will serve the remainder of the term through June 30, 2024.

DATES: We must receive nominations for Committee membership no later than 5 p.m. EST on Monday, February 27.

ADDRESSES: Email nominations to OGIS at *foia-advisory-committee@nara.gov.* If you are unable to submit by email, please contact Kirsten Mitchell, Designated Federal Officer, at the contact information below.

FOR FURTHER INFORMATION CONTACT: Kirsten Mitchell by phone at 202.741.5775 or by email at *foia-advisory-committee@nara.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The National Archives and Records Administration (NARA) established the Freedom of Information Act (FOIA) Advisory Committee in accordance with the United States Second Open Government National Action Plan, released on December 5, 2013, and operates the Committee under the directive in FOIA, 5 U.S.C. 552(h)(2)(C), that the Office of Government Information Services (OGIS) within NARA ''identify procedures and methods for improving compliance'' with FOIA. The Committee is governed by the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App.

II. Charter and Membership Appointment Terms

NARA initially chartered the Committee on May 20, 2014. The Archivist of the United States renewed the Committee's charter for a fifth term on April 28, 2022, and in August 2022, the Acting Archivist of the United States appointed 20 members to serve for two (2) years, concurrent with the Committee charter. A non-Government representative member has resigned from the Committee, creating a vacancy.

III. Committee Membership

The 2022–2024 FOIA Advisory Committee consists of no more than 20 individuals who shall include a range of Government and non-Government representatives. Members are selected in accordance with the charter. Nominations for the vacant seat should be non-Governmental FOIA experts. For more information about the charter and Committee membership is available at *https://www.archives.gov/ogis/foia-advisory-committee/2022-2024-term.*

IV. Committee Members' Responsibilities

All Committee members are expected to attend the eight virtual or in-person public meetings remaining in the two-year Committee term that ends June 30, 2024. All Committee members are expected to volunteer for one or more of three working subcommittees that meet at various times during the two-year term. The remaining meetings of the 2022–2024 Committee term are scheduled for Thursday, March 2, 2023; Thursday, June 8, 2023; Thursday, September 7, 2023; Thursday, December 7, 2023; Tuesday, March 5, 2024; Thursday, April 4, 2024; Thursday, May 9, 2024, and Thursday, June 13, 2024.

V. Nomination Information

All nominations for the Committee vacancy must include the following information:

1. *If you are self-nominating:* Your name, title, relevant contact information (including telephone and email address); and your résumé or curriculum vitae.

2. *If you are nominating another individual:* The nominee's name, title, and relevant contact information; and their résumé or curriculum vitae.

3. *For both self-nominations and nominations by other individuals:* Your submission must include a statement (not to exceed one page) highlighting the contributions the nominee would make as a member of the Committee.

The Acting Archivist of the United States will review the nominations and make a final appointment. OGIS will notify in writing the nominee the Acting Archivist selects.

Tasha Ford,

Committee Management Officer.

[FR Doc. 2023–03401 Filed 2–16–23; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Renew a Current Information Collection

AGENCY: National Science Foundation; National Center for Science and Engineering Statistics.

ACTION: Notice and request for comments.

SUMMARY: The National Center for Science and Engineering Statistics (NCSES) within the National Science Foundation (NSF) is announcing plans to request renewal of the Survey of Graduate Students and Postdoctorates in Science and Engineering (OMB Control Number 3145–0062). In accordance with the requirements of the Paperwork Reduction Act of 1995, NSF is providing opportunity for public comment on this action. After obtaining and considering public comments, NSF will prepare the submission requesting that OMB approve clearance of this collection for three years.

DATES: Written comments on this notice must be received by April 18, 2023 to be assured of consideration. Comments received after that date will be considered to the extent practicable. Send comments to the address below.

For Additional Information or Comments: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 2415 Eisenhower Avenue, Suite E7400, Alexandria, Virginia 22314; telephone (703) 292–7556; or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including Federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Survey of Graduate Students and Postdoctorates in Science and Engineering.

OMB Control Number: 3145–0062.

Expiration Date of Current Approval: August 31, 2023.

Type of Request: Intent to seek approval to extend an information collection for three years.

Abstract: Established within NSF by the America COMPETES Reauthorization Act of 2010 § 505, codified in the National Science Foundation Act of 1950, as amended, the National Center for Science and Engineering Statistics (NCSES) serves as a central Federal clearinghouse for the collection, interpretation, analysis, and dissemination of objective data on science, engineering, technology, and research and development for use by practitioners, researchers, policymakers, and the public.

The Survey of Graduate Students and Postdoctorates in Science and Engineering (GSS), sponsored by the NCSES within NSF and the National Institutes of Health, is designed to comply with legislative mandates by providing information on the characteristics of academic graduate enrollments in science, engineering, and health fields. The GSS, which originated in 1966 and has been conducted annually since 1972, is a census of all departments in science, engineering, and health (SEH) fields within academic institutions with graduate programs in the United States. This request to extend the information collection for three years is to cover the 2023, 2024, and 2025 GSS survey cycles. The information collected by the GSS is solicited under the authority of the National Science Foundation Act of 1950, as amended and the America COMPETES Reauthorization Act of 2010. Data collection starts each fall in October and data are obtained primarily through a Web survey. All information will be used for statistical purposes only. Participation in the survey is voluntary.

The expected frame for the 2023 GSS includes 709 institutions comprising 797 schools with 876 total Coordinators. The GSS is the only national survey that collects information on the characteristics of graduate enrollment and postdoctoral appointees (postdocs) for specific SEH disciplines at the department level. It collects information on:

(1) Master's and doctoral students' ethnicity and race, citizenship, gender, source and mechanism of financial support (*e.g.,* fellowships, traineeships, assistantships) and enrollment status.

(2) Postdocs' ethnicity and race, citizenship, gender, source and mechanism of financial support, type of doctoral degree, and degree origin (U.S. or foreign); and

(3) Other doctorate-holding non-faculty researchers' gender and type of doctoral degree.

To improve coverage of postdocs, the GSS periodically collects information on postdocs employed in Federally Funded Research and Development Centers (FFRDCs) by ethnicity and race, gender, citizenship, source and mechanism of financial support, and field of research. This survey of postdocs at FFRDCs will be conducted as part of the 2023 and 2025 GSS survey cycles. In these years, there will be an additional 43 coordinators contacted to respond to GSS.

The initial GSS data request is sent to a designated respondent, the School Coordinator, at each academic institution in the fall. The School Coordinators gather the data for all of the reporting units at the institution. Reporting units are comprised of the departments, programs, research centers, and health care facilities at each institution. The School Coordinator may upload a file with the requested data on the GSS website, which will automatically aggregate the data and populate the cells of the Web survey instrument for each of the reporting units. This method of data provision is called Electronic Data Interchange (EDI). The School Coordinator also may upload partial data (*e.g.,* student enrollment information) and delegate the provision of other data (*e.g.,* financial support information) to the appropriate reporting units at their institution (unit respondents). Institutions that do not want to use EDI will be able to complete the survey through manual entry of data (*i.e.,* typing the data for each response item on every unit) in the Web survey instrument as in the past.

Data are disseminated annually on the NCSES website *https://www.nsf.gov/statistics/srvygradpostdoc* in the form of 93 data tables, a 3 to 5 page InfoBrief, and public use files (*https://www.nsf.gov/statistics/srvygradpostdoc/pub_data.cfm).* In addition, current and historical data are available via the NCSES Integrated Data Tool (*https://ncsesdata.nsf.gov/ids/?utm_source=Main&utm_medium=Main&utm_campaign=Main*).The Data Tool combines GSS data with academic sector data from both NCSES and the National Center of Education Statistics and allows for custom querying.

Use of the Information: The GSS data are routinely provided to Congress and other Federal agencies. The GSS institutions themselves are major users of the GSS data. Professional societies such as the American Association of Universities, the Association of American Medical Colleges, and the Carnegie Foundation are also major users. Graduate enrollment and postdoc data are often used in reports by the national media. With the help of the aforementioned NCSES Data Tool, NSF reviews changing enrollment levels to assess the effects of NSF initiatives, track graduate student support patterns, and analyze participation in science and engineering fields for targeted groups by discipline and for selected groups of institutions. GSS data are also used in two congressionally mandated NCSES publications: *Women, Minorities, and Persons with Disabilities in Science and Engineering* (*https://ncses.nsf.gov/wmpd/*) and the National Science Board's *Science and Engineering Indicators* (*https://ncses.nsf.gov/indicators*). In addition, the National Institutes of Health (NIH) publish GSS data annually in the NIH Data Book *https://report.nih.gov/nihdatabook/* .

Expected Respondents: The GSS is an annual census of all eligible academic institutions in the U.S. with graduate programs in science, engineering and health fields. The response rate is calculated based on the number of reporting units (departments, programs, research centers, and health care facilities) that respond to the survey. For reference, in 2021, the GSS population consisted of 21,365 reporting units at 699 academic institutions. Based on recent cycles, NCSES expects the annual response rate to be around 99 percent.

Estimate of Burden: For each GSS survey cycle, both School Coordinators and reporting-unit respondents (URs) are asked to provide an estimate of how long it took them to complete the data collection. Coordinators at FFRDCs are also asked about the hours required complete the Web instrument. In the past three GSS cycles (2019–2021 data collections), the average burden per coordinator was 19.7 hours per cycle. However, burden varies considerably across respondents. The amount of time it takes to complete the GSS data depends to a large degree on the extent to which the school's records are centrally stored and computerized. It also depends on whether the institution uses manual data entry or EDI to provide the GSS data, the number of SEH reporting units that need to be reported by the institution, and the degree to which URs within the institution are used to collect and report data.

To estimate burden for the next three GSS data collection survey cycles (2023, 2024, and 2025), the GSS frame is split by response method (EDI or manual entry) and the number of reporting units reported by the institution (more than 15 units are large reporters and 15 or fewer units are small reporters). Table 1 presents burden estimates based on observed the size of the institution and burden estimates collected from the 2019–21 GSS survey cycles. Average burden is weighted by year and the proportion of institutions that utilize URs in reporting data to GSS.

The use of URs has a large impact on GSS burden as it requires multiple individuals at the school to respond to the survey. To address the variance between schools that use URs and those that do not, UR burden was calculated and included with the coordinator's burden when applicable. This calculation is necessary because when a school utilizes URs, the coordinators' burden is minimal while the response burden falls to individual URs. Average UR burden was applied to all units at schools utilizing URs and was then added to the coordinator's burden.

TABLE 1—GSS 2019–2021 TOTAL BURDEN BY INSTITUTIONAL REPORTING SIZE, DATA PROVISION METHOD, AND UNIT RESPONDENT STATUS

Institution type	Do not use URs		Uses URs		All coordinators		
	Average coordinators per year	Year-weighted average burden (hours)	Average coordinators per year	Year-weighted average burden (hours)	Average coordinators per year	Year-weighted average burden (hours)	Average per cycle burden (hours)
More than 15 units, EDI	314	29.9	19	179.2	332	38.3	12,716
More than 15 units, Manual data entry	24	24.7	8	152.8	32	58.1	1,859
15 or fewer units, EDI	350	9.9	5	28.8	354	10.1	3,575
15 or fewer units, Manual data entry	149	7.4	14	22.1	164	8.7	1,427
Average Estimated Total	836	17.4	46	110.2	882	22.2	19,603

The expected frame for the 2022 GSS includes 704 institutions comprising 792 schools with 871 total School Coordinators (some institutions utilize multiple School Coordinators based on how they are organized). To estimate the burden for the 2023–2025 GSS survey cycles, we assume a steady state in terms of the use of EDI but based on recent cycles we expect the number of School Coordinators to increase by five each cycle. New schools tend to have small numbers of eligible units and students, so the five coordinators are added to the small school manual data entry category. Thus, we expect to have 876 coordinators in 2023, 881 in 2024 and 886 in 2025. The estimated burden per respondent is approximately 22 hours per School Coordinator; the exact number is based on the distributions shown in Table 1, adjusted for the additional coordinators. Given the historically high levels of participation, a 100 percent school response rate is used in these estimates. Since the FFRDC postdoc data collection will take place in 2023 and 2025, the estimated burden for those years will increase by 90 hours from 43 FFRDCs (based on 100 percent response rate in 2021 survey with the average burden of 2.1 hours per FFRDC).

TABLE 2—GSS ESTIMATED RESPONSE BURDEN

Category	Respondents (number of school coordinators)	Total burden (hours)
Total burden for 2023	919	19,442

TABLE 2—GSS ESTIMATED RESPONSE BURDEN—Continued

Category	Respondents (number of school coordinators)	Total burden (hours)
GSS institutions	876	19,352
FFRDCs	43	90
Total burden for 2024	881	19,396
Total burden for 2025	929	19,529
GSS institutions	886	19,439
FFRDCs	43	90
Potential future methodological studies (across all 3 survey cycles)	.....	2,000
Total estimated burden	2,729	60,367
Estimated average annual burden	910	20,123

The total estimated respondent burden of the GSS, including 2,000 hours for potential methodological studies to improve the survey procedures, will be 60,367 hours over the three-cycle survey clearance period. NCSES may review and revise this burden estimate based on completion time data collected during the 2022 GSS survey cycle, which is ongoing.

Comments: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of NSF, including whether the information shall have practical utility; (b) the accuracy of NSF's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, use, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: February 13, 2023.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2023–03352 Filed 2–16–23; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0190]

Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: NUREG; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing NUREG–1307, Revision 19, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities.'' This report, which is revised periodically, explains the formula acceptable to the NRC for determining the minimum decommissioning fund requirements for nuclear power reactor licensees, as required by NRC regulations. Specifically, this report provides the adjustment factor and updates the values for the labor, energy, and waste burial escalation factors of the minimum formula.

DATES: NUREG–1307, Revision 19, is available on February 17, 2023.

ADDRESSES: Please refer to NRC–2022–0190 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0190. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* NUREG–1307, Revision 19, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities'' is available in ADAMS under Accession No. ML23044A207.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Emil Tabakov, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6814, email: *Emil.Tabakov@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Discussion

Pursuant to section 50.75 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Reporting and Recordkeeping for Decommissioning Planning,'' the NRC requires nuclear power reactor licensees to adjust annually, in current year dollars, their estimate of the cost to decommission their plants. The annual updates are part of the process for providing reasonable assurance that adequate funds for decommissioning will be available when needed.

Revision 19 of NUREG–1307, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities,'' modifies Revision 18 to this report issued in January 2021 (ADAMS Accession No. ML21027A302) and incorporates updates to the adjustment factor and to the labor, energy, and waste burial escalation factors of the NRC minimum decommissioning fund formula. The minimum decommissioning fund formula amounts calculated by licensees using the

Barnwell low-level waste disposal facility will be impacted by a significant increase in low-level waste burial charge pricing at that site. Additionally, at the nation's three other low-level waste disposal facilities, both moderate increases in some, and decreases in other, low-level waste burial charges, coupled with moderate increases in labor rates and near doubling of energy rates for all licensees, likely will result in higher formula amounts for all licensees. Thus, based on revised low-level waste burial factors presented in this report and increases in labor and energy rates, the minimum decommissioning fund formula amounts calculated by licensees will likely reflect moderate to more substantial increases when compared to those previously reported by licensees in 2021.

II. Additional Information

The NRC published a notice in the **Federal Register** on November 29, 2022 (87 FR 73345) requesting public comment on draft NUREG–1307, Revision 19, ''Report on Waste Burial Charges: Changes in Decommissioning Waste Disposal Costs at Low-Level Waste Burial Facilities.'' The public comment period closed on December 29, 2022. The NRC received four public comments. The public comments and the NRC staff's responses are presented in a comment resolution matrix available in ADAMS under Accession No. ML23038A239. The staff considered the public comments received on the draft document in preparing final NUREG–1307, Revision 19.

Dated: February 13, 2023.

For the Nuclear Regulatory Commission.

Frederick R. Miller,

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

[FR Doc. 2023–03358 Filed 2–16–23; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2023–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of February 20, 27, March 6, 13, 20, 27, 2023. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public and closed.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at *Wendy.Moore@nrc.gov* or *Tyesha.Bush@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of February 20, 2023

There are no meetings scheduled for the week of February 20, 2023.

Week of February 27, 2023—Tentative

There are no meetings scheduled for the week of February 27, 2023.

Week of March 6, 2023—Tentative

Tuesday, March 7, 2023

10:00 a.m. Briefing on NRC International Activities (Closed Ex. 1 and 9)

Week of March 13, 2023—Tentative

There are no meetings scheduled for the week of March 13, 2023.

Week of March 20, 2023—Tentative

There are no meetings scheduled for the week of March 20, 2023.

Week of March 27, 2023—Tentative

Thursday, March 30, 2023

9:00 a.m. Briefing on Nuclear Regulatory Research Program (Public Meeting); (Contact: Nicholas Difrancesco: 301–415–1115).

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

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: February 15, 2023.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2023–03584 Filed 2–15–23; 4:15 pm]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Payment of Premiums; Termination Premium

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, with modifications, under the Paperwork Reduction Act, of a collection of information for the termination premium under its regulation on Payment of Premiums. This notice informs the public of PBGC's request and solicits public comment on the collection of information.

DATES: Comments must be submitted on or before March 20, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. All comments received will be posted without change to PBGC's website, *http://www.pbgc.gov,* including any personal information provided. Do not submit comments that include any personally identifiable information or confidential business information.

Copies of the collection of information may be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101, or calling 202–229–4040 during normal business hours. If you are deaf or hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 445 12th Street SW, Washington, DC 20024–2101, 202–229–6563. (If you are deaf or hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). Section 4006(a)(7) of ERISA provides for a ''termination premium'' (in addition to the flat-rate and variable-rate premiums under sections 4006(a)(3)(A) and (E)) that is payable for 3 years following certain distress and involuntary plan terminations. PBGC's regulations on Premium Rates (29 CFR part 4006) and Payment of Premiums (29 CFR part 4007) implement the termination premium. Sections 4007.3 and 4007.13(b) of the premium payment regulation require the filing of termination premium information and payments with PBGC. PBGC has issued Form T and its corresponding instructions for paying the termination premium. In this renewal, PBGC is updating the email address listed in the filing instructions for Form T and making a clarifying edit.

In general, the termination premium applies where a single-employer plan terminates in a distress termination under section 4041(c) of ERISA (unless contributing sponsors and controlled group members meet the bankruptcy liquidation requirements of section 4041(c)(2)(B)(i)) or in an involuntary termination under section 4042 of ERISA, and the termination date under section 4048 of ERISA is after 2005.

The termination premium is payable for 3 years. The same amount is payable each year. The termination premium is due on the 30th day of each of 3 consecutive 12-month periods. The first 12-month period generally begins shortly after the termination date or after the conclusion of bankruptcy proceedings in certain cases. The termination premium and related information must be filed by a person liable for the termination premium. The persons liable for the termination premium are contributing sponsors and members of their controlled groups, determined on the day before the plan termination date. Section 4007.10 of the premium payment regulation requires the retention of records supporting or validating the computation of premiums paid and requires that the records be made available to PBGC.

The existing collection of information was approved under OMB control number 1212–0064 (expires April 30, 2023). On December 12, 2022, PBGC published in the **Federal Register** (at 87 FR 76090) a notice informing the public of its intent to request an extension of this collection of information, as modified. No comments were received. PBGC is requesting that OMB extend approval of the collection (with modifications) for three years. 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.

PBGC estimates that, during the next 3 years, it will receive an average of 1 filing of Form T per year. PBGC estimates that the total annual burden for the collection of information will be 5 minutes and $67.

Issued in Washington, DC.

Stephanie Cibinic,

Deputy Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2023–03350 Filed 2–16–23; 8:45 am]

BILLING CODE 7709–02–P

POSTAL SERVICE

Change in Rates and Classes of General Applicability for Competitive Products

AGENCY: Postal Service™.

ACTION: Notice of a change in rates and classifications of general applicability for competitive products.

SUMMARY: This notice sets forth changes in rates and classifications of general applicability for competitive products, namely, First-Class Package Service.

DATES: *Effective date:* July 9, 2023.

FOR FURTHER INFORMATION CONTACT: Elizabeth Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: On February 9, 2023, pursuant to their authority under 39 U.S.C. 3632, the Governors of the Postal Service established prices and classification changes for competitive products. The Governors' Decision and the record of proceedings in connection with such decision are reprinted below in accordance with section 3632(b)(2). Mail Classification Schedule language containing the new prices and classification changes can be found at *www.prc.gov.*

Sarah Sullivan,

Attorney, Ethics & Legal Compliance.

Decision of the Governors of the United States Postal Service on Changes in Rates and Classifications of General Applicability for Competitive Products (Governors' Decision No. 23–1)

February 9, 2023

Statement of Explanation and Justification

Pursuant to authority under section 3632 of title 39, as amended by the Postal Accountability and Enhancement Act of 2006 (''PAEA''), we establish changes in rates and classifications of general applicability for First-Class Package Service, one of the Postal Service's competitive products. The changes are described generally below, with a detailed description of the changes in the attachment. The attachment includes the draft Mail Classification Schedule sections with classification changes in legislative format.

In Governors' Decision 22–2, we established a variety of changes designed to simplify and streamline the Postal Service's ground competitive package offerings under one product, First-Class Package Service. Subsequently, in Governors' Decision 22–4, we delayed implementation of the changes and committed to implementing them this calendar year with a minimum of 30 days' notice. The changes we establish today will implement the approved changes and rename the First-Class Package Service product as ''USPS Ground Advantage.'' The Retail and Commercial price categories will be maintained, and the Retail price category will retain its seal against inspection. USPS Ground Advantage will also include up to $100 of insurance as well as cubic pricing tiers up to one cubic foot (1 cu. ft.). Certain additional changes are being made today, to clarify that dimensional weighting applies up to Zone 9, and to clarify that the dimension noncompliance fee applies to this product. We are also removing Certificate of Mailing and Certified Mail as available extra services that can be utilized with USPS Ground Advantage.

Rates are being established for USPS Ground Advantage, reflecting both ounce-based and pound-based rates, to take effect on July 9, 2023. These rates are designed to closely align with existing ground package rates established in January 2023. We understand that management may

propose further updates to these proposed rates at our May meeting, which will be considered at that time. The Postal Service expects that its retail and commercial customers will all benefit from this consolidated ground package offering, which beginning on July 9, 2023, will be known as USPS Ground Advantage.

Order

The changes in rates and classes set forth herein shall be effective at 12:01 a.m. on July 9, 2023. We direct the Secretary to have this decision published in the **Federal Register** in accordance with 39 U.S.C. 3632(b)(2) and direct management to file with the Postal Regulatory Commission appropriate notice of these changes.

By The Governors:
/s/

Roman Martinez IV,
Chairman, Board of Governors.

UNITED STATES POSTAL SERVICE OFFICE OF THE BOARD OF GOVERNORS

CERTIFICATION OF GOVERNORS' VOTE ON GOVERNORS' DECISION NO. 23–1

Consistent with 39 U.S.C. 3632(a), I hereby certify that, on February 9, 2023, the Governors voted on adopting Governors' Decision No. 23–1, and that a majority of the Governors then holding office voted in favor of that Decision.

Date: *February 9, 2023*
/s/

Michael J. Elston
Secretary of the Board of Governors.

[FR Doc. 2023–03421 Filed 2–16–23; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96905; File No. SR–PEARL–2023–03]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 2618 To Add Optional Risk Control Settings

February 13, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 3, 2023, MIAX PEARL, LLC (''MIAX Pearl'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange amend Exchange Rule 2618(a)(2) to offer two additional optional risk settings to Equity Members, called the Gross Notional Open and Trade Value and Net Notional Open and Trade Value.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl* at MIAX Pearl's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to provide Equity Members additional risk settings when trading equity securities on MIAX Pearl Equities. To help Equity Members manage their risk, the Exchange currently offers risk settings that authorize the Exchange to take automated action if a designated limit for an Equity Member is breached. Such risk settings provide Equity Members with enhanced abilities to manage their risk when trading on the Exchange. The Exchange now proposes to amend Exchange Rule 2618(a)(2) to offer two additional optional risk settings to Equity Members, called the Gross Notional Open and Trade Value and Net Notional Open and Trade Value. Each of these new risk settings seeks to combine certain existing risk settings into a single risk setting and are described below.

Exchange Rule 2618(a)(2) sets forth the specific cumulative risk settings the Exchange offers and include Gross Notional Trade Value, Net Notional Trade Value, Gross Notional Open Value, and Net Notional Open Value.[3] Gross Notional Trade Value is a pre-established maximum daily dollar amount for purchases and sales across all symbols, where both purchases and sales are counted as positive values. Net Notional Trade Value is a pre-established maximum daily dollar amount for purchases and sales across all symbols, where purchases are counted as positive values and sales are counted as negative values. For purposes of calculating the Gross Notional Trade Value and Net Notional Trade Value, only executed orders are included.

The Gross Notional Open Value is a pre-established maximum daily dollar amount for open buy and sell orders across all symbols, where both open orders to buy and sell are counted as positive values. For purposes of calculating the Gross Notional Open Value, only unexecuted orders are included. The Net Notional Open Value is a pre-established maximum daily dollar amount for open buy and sell orders across all symbols, where open orders to buy are counted as positive values and open orders to sell are counted as negative values. For purposes of calculating the Net Notional Open Value, only unexecuted orders are included, just like the Gross Notional Open Value risk control.

For both the Gross Notional Open Value and Net Notional Open Value risk settings, the open orders calculation only includes Limit Orders and Pegged Orders resting on the MIAX Pearl Equities Book and Limit Orders that have been routed to an away exchange for execution.[4] Limit Orders and Pegged Orders are included at their limit price. Market Orders are not included.[5] Each of the above risk settings is completely optional and is not applied where the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 89971 (September 23, 2020), 85 FR 61053 (September 29, 2022 [sic]) (SR–PEARL–2020–16); 90478 (November 23, 2022 [sic]), 85 FR 76630 (November 30, 2020) (SR–PEARL–2020–26); *and* 96205 (November 1, 2022), 87 FR 67080 (November 17 [sic], 2022) (SR–PEARL–2022–43).

[4] Pegged Orders are not eligible for routing pursuant to Exchange Rule 2617(b). *See* Exchange Rule 2614(a)(3)(E).

[5] *See* Securities Exchange Act Release No. 96205 (November 1, 2022), 87 FR 67080 (November 17 [sic], 2022) (SR–PEARL–2022–43).

Equity Member does not set the applicable threshold.

Based on Equity Member demand, the Exchange proposes to adopt the following two additional cumulative risk settings that take into account both trades, as well as open, unexecuted orders, Gross Notional Open and Trade Value and Net Notional Open and Trade Value. The proposed risk settings combine each of the above two gross calculated risk settings into a single risk control and the two net calculated risk settings also into a single risk setting. Specifically, the Gross Notional Open and Trade Value would be a combination of the Gross Notional Open Value and Gross Notional Trade Value risk settings and include both purchases and sales as well as open buy and sell orders across all symbols. Like the existing gross calculated risk settings, purchases, sales, open orders to buy, and open orders to sell would be counted as positive values and a combination of executed and unexecuted orders would be included. Meanwhile, the Net Notional Open and Trade Value would be a combination of the Net Notional Open Value and Net Notional Trade Value risk settings and also include purchases and sales as well as open buy and sell orders across all symbols. Like the existing net calculated risk settings, where purchases and open orders to buy would be counted as positive values and sales and open orders to sell would be counted as negative values and, like above for the Gross Notional Open and Trade Value risk control, both executed and unexecuted orders would be included.

Each of these above proposed risk settings would be codified under Exchange Rule 2618(a)(2). Proposed Exchange Rule 2618(a)(2)(E) would provide that the ''Gross Notional Open and Trade Value'' is a pre-established maximum daily dollar amount for purchases and sales, as well as open buy and sell orders across all symbols, where purchases, sales, open orders to buy, and open orders to sell are counted as positive values. Proposed Exchange Rule 2618(a)(2)(E) would further provide that for purposes of calculating the Gross Notional Open and Trade Value, executed and unexecuted orders would be included. Proposed Exchange Rule 2618(a)(2)(F) would provide that the ''Net Notional Open and Trade Value'' would be a pre-established maximum daily dollar amount for purchases and sales, as well as open buy and sell orders across all symbols, where purchases and open orders to buy are counted as positive values, and sales and open orders to sell are counted as negative values. Proposed Exchange Rule 2618(a)(2)(F) would further provide that for purposes of calculating the Net Notional Open and Trade Value, executed and unexecuted orders would be included.

Like for both the Gross Notional Open Value and Net Notional Open Value risk settings, the open orders calculation portion of both the proposed Gross Notional Open and Trade Value and Net Notional Open and Trade Value risk settings would only include Limit Orders and Pegged Orders resting on the MIAX Pearl Equities Book and Limit Orders that have been routed to an away exchange for execution.[6] Limit Orders and Pegged Orders would be included at their limit price. Market Orders would not be included. Like the existing risk settings set for in Exchange Rule 2618(a)(2), each of the proposed risk settings would be completely optional and would not be applied where the Equity Member does not set the applicable threshold.

Exchange Rule 2618(a)(4) provides that an Equity Member that does not self-clear may allocate and revoke[7] the responsibility of establishing and adjusting the Gross Notional Trade Value, Net Notional Trade Value, Gross Notional Open Value, and Net Notional Open Value risk settings to a Clearing Member[8] that clears transactions on behalf of the Equity Member, if designated in a manner prescribed by the Exchange. The Exchange proposes that the same would be true for the new Gross Notional Open and Trade Value and Net Notional Open and Trade Value risk settings.

By way of background, Exchange Rule 2620(a) allows Clearing Members an opportunity to manage their risk of clearing on behalf of other Equity Members, if authorized to do so by the Equity Member trading on the Exchange. Such functionality is designed to help Clearing Members better monitor and manage the potential risks that they assume when clearing for Equity Members of the Exchange. An Equity Member may allocate or revoke the responsibility of establishing and adjusting the risk settings identified in paragraph (a)(2) of Exchange Rule 2618 to its Clearing Member in a manner prescribed by the Exchange. By allocating such responsibility, an Equity Member cedes all control and ability to establish and adjust such risk settings to its Clearing Member unless and until such responsibility is revoked by the Equity Member. Because the Equity Member is responsible for its own trading activity, the Exchange will not provide a Clearing Member authorization to establish and adjust risk settings on behalf of an Equity Member without first receiving consent from the Equity Member. The Exchange considers an Equity Member to have provided such consent if it allocates the responsibility to establish and adjust risk settings to its Clearing Member in a manner prescribed by the Exchange.

Exchange Rule 2618(a)(3) provides that either an Equity Member or its Clearing Member, if allocated such responsibility pursuant to Exchange Rule 2618(a)(4), may establish and adjust limits for the risk settings provided in Exchange Rule 2618(a)(2). An Equity Member or Clearing Member may establish and adjust limits for the risk settings in a manner prescribed by the Exchange. This includes use of the Exchange's online portal. The online portal page also provides a view of all applicable limits for each Equity Member, which will be made available to the Equity Member and its Clearing Member, as currently discussed in Exchange Rule 2618(a)(4). The proposed new risk settings would be incorporated into the Exchange's online portal.

* * * * *

The Exchange does not guarantee that the risk settings in this proposal are sufficiently comprehensive to meet all of an Equity Member's risk management needs. Pursuant to Rule 15c3–5 under the Act,[9] a broker-dealer with market access must perform appropriate due diligence to assure that controls are reasonably designed to be effective, and otherwise consistent with the rule.[10] Use of the Exchange's risk settings included in Exchange Rule 2618 will not automatically constitute compliance with Exchange or federal rules and responsibility for compliance with all

[6] *See* Securities Exchange Act Release No. 96205 (November 1, 2022), 87 FR 67080 (November 17 [sic], 2022) (SR–PEARL–2022–43).

[7] As discussed below, if an Equity Member revokes from its Clearing Member the responsibility of establishing and adjusting the risk settings identified in paragraph (a)(2), the settings applied by the Equity Member would be applicable.

[8] The term ''Clearing Member'' refers to a Member that is a member of a Qualified Clearing Agency and clears transactions on behalf of another Member. *See* Exchange Rule 2620(a). Exchange Rule 2620(a) also outlines the process by which a Clearing Member shall affirm its responsibility for clearing any and all trades executed by the Equity Member designating it as its Clearing Firm, and provides that the rules of a Qualified Clearing Agency shall govern with respect to the clearance and settlement of any transactions executed by the Equity Member on the Exchange.

[9] 17 CFR 240.15c3–5.

[10] *See* Division of Trading and Markets, Responses to Frequently Asked Questions Concerning Risk Management Controls for Brokers or Dealers with Market Access, *available at https://www.sec.gov/divisions/marketreg/faq-15c-5-risk-management-controls-bd.htm.*

Exchange and SEC rules remains with the Equity Member.

Implementation

Due to the technological changes associated with this proposed change, the Exchange will issue a trading alert publicly announcing the implementation date of the proposed enhancements to its risk settings set forth herein. The Exchange anticipates that the implementation date will be in the second or third quarter of 2023.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5),[12] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

Specifically, the Exchange believes the proposed risk settings will remove impediments to and perfect the mechanism of a free and open market and a national market system because they provide additional functionality for an Equity Member to manage its risk. The Exchange notes that the proposed risk settings are entirely optional. The Exchange believes that the proposed risk settings under Exchange Rule 2618(a)(2) are designed to protect investors and the public interest because the proposed additional functionality is a form of risk mitigation that will aid Equity Members and Clearing Members in minimizing their financial exposure and reduce the potential for disruptive, market-wide events. In turn, the introduction of such risk management functionality could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. The proposed rule change would provide an additional option for Equity Members seeking to further tailor their risk management capability while transacting on the Exchange.

The proposed Gross Notional Open and Trade Value and Net Notional Open and Trade Value risk settings under Exchange Rule 2618(a)(2) would further permit Equity Members and Clearing Members who have a financial interest in the risk settings of Equity Members to better monitor and manage their potential risks, including those assumed by Clearing Members, thereby providing Equity Members and Clearing Members with greater control and flexibility over setting their own risk tolerance and exposure. In addition, the proposed additional risk settings under Exchange Rule 2618(a)(2) could provide Clearing Members, who have assumed certain risks of Equity Members, greater control over risk tolerance and exposure on behalf of their correspondent Equity Members, if allocated responsibility pursuant to Exchange Rule 2618(a)(4), while also providing an alert system under Exchange Rule 2618(a)(5) that ensures that both Equity Members and Clearing Members are aware of developing issues. As such, the Exchange believes that the proposed risk settings would provide additional means to address potentially market-impacting events, helping to ensure the proper functioning of the market. To the extent a Clearing Member might reasonably require an Equity Member to provide access to its risk settings as a prerequisite to continuing to clear trades on the Equity Member's behalf, the Exchange's sharing of those risk settings directly reduces the administrative burden on participants on the Exchange, including both Clearing Members and Equity Members. Moreover, providing Clearing Members with the ability to see the risk settings established for Equity Members for which they clear fosters efficiencies in the market and removes impediments to and perfects the mechanism of a free and open market and a national market system. The Exchange believes that the proposed new risk settings under Exchange Rule 2618(a)(2) are consistent with the Act, particularly Section 6(b)(5),[13] because they would foster cooperation and coordination with persons engaged in facilitating transactions in securities and more generally, will protect investors and the public interest, by allowing Equity Members and Clearing Members to better monitor their risk exposure and by fostering efficiencies in the market and removing impediments to and perfect the mechanism of a free and open market and a national market system.

In addition, the proposed Gross Notional Open and Trade Value and Net Notional Open and Trade Value risk settings under proposed Exchange Rule 2618(a)(2)(E) and (F), respectively, are similar to the existing net and gross calculated controls under Exchange Rules 2618(a)(2)(A), (B), (C), and (D) and simply seeks to combine the features of each existing gross and net calculated risk settings into a single risk setting as described above. Proposed Gross Notional Open Value and Net Notional Open Value risk settings under proposed Exchange Rule 2618(a)(2)(E) and (F) are also reasonably designed to provide Equity Members and Clearing Members (if allocated responsibility pursuant to Exchange Rule 2618(a)(4)) additional opportunity to monitor and manage the potential risks of an execution that exceeds their certain risk appetite, as well as to provide Clearing Members with greater control over their risk tolerance and exposure on behalf of their correspondent Equity Members.

* * * * *

Finally, the Exchange believes that the proposed risk settings do not unfairly discriminate among the Exchange's Equity Members because use of the risk settings is optional and are not a prerequisite for participation on MIAX Pearl Equities. The proposed risk settings are completely voluntary and, as they relate solely to optional risk management functionality, no Equity Member is required or under any regulatory obligation to utilize them.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange believes that the proposal may have a positive effect on competition because it would provide Equity Members and their Clearing Members additional means to monitor and control risk, thereby potentially increasing confidence in the proper functioning of the markets and contribute to additional competition among trading venues and broker-dealers. Rather than impede competition, the proposal is designed to facilitate more robust risk management by Equity Members and Clearing Members, which, in turn, could enhance the integrity of trading on the securities markets and help to assure the stability of the financial system. The proposal would impose no burden on intra-market competition because use of the proposed risk settings is optional and each risk setting is available to all Equity Members equally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [14] and Rule 19b–4(f)(6) [15] 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 shall institute proceedings to determine whether the proposed rule 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–PEARL–2023–03 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–PEARL–2023–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–PEARL–2023–03 and should be submitted on or before March 10,2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–03335 Filed 2–16–23; 8:45 am]

BILLING CODE 8011–01–P

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96889; File No. SR–CboeEDGX–2023–007]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Data Product Called the Cboe One Options Feed

February 13, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 30, 2023, Cboe EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, 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 EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to adopt a new data product called the Cboe One Options Feed. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish a new market data product called the Cboe One Options Feed. The Exchange also proposes to amend Exchange Rule 21.15(b) to add a description of the Cboe One Options Feed under new subparagraph (7). As described more fully below, the Cboe One Options Feed is a data feed that that will offer top of book quotations and execution information based on options orders entered into the Exchange System and its affiliated options exchanges Cboe Exchange, Inc. (''Cboe Options''), Cboe C2 Exchange, Inc. (''C2 Options''), and Cboe BZX Exchange, Inc. (''BZX Options'') (collectively, the ''Affiliates'' and collectively with the Exchange, the ''Cboe Options Exchanges'') and for which the Cboe Options Exchanges report quotes under the OPRA Plan.[3]

[3] The Exchange understands that each of the Cboe Options Exchanges will separately file substantially similar proposed rule changes to implement Cboe One Options Feed and its related fees.

Currently, the Exchange offers EDGX Options Top feed, which is an uncompressed data feed that offers top-of-book quotations and last sale information based on options orders entered into the Exchange's System. The EDGX Options Top feed benefits investors by facilitating their prompt access to real-time top-of-book information contained in EDGX Options Top. The Exchange notes that EDGX Options Top is ideal for market participants requiring both quote and trade data. The Exchange's Affiliates also offer similar top-of-book data.[4] Particularly, each of the Exchange's Affiliates offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the EDGX Options Top feed. Further, the quote and last sale data contained in the Exchange's Affiliates top feeds is identical to the data sent to OPRA for redistribution to the public.

The Exchange now proposes to adopt a market data product that will provide top-of-book quotation and last sale information based on the quotation and trading activity on the Exchange and each of its Affiliates, which the Exchange believes will offer a comprehensive and highly representative view of US options pricing to market participants. More specifically, the proposed Cboe One Options Feed will contain the aggregate best bid and offer (''BBO'') of all displayed orders for options traded on the Exchange and its Affiliates, as well as individual last sale information and volume, for options traded on the Exchange, which includes the price, time of execution and individual Cboe options exchange on which the trade was executed. The Cboe One Options Feed will also consist of Symbol Summary,[5] Market Status,[6] Trading Status,[7] and Trade Break[8] messages for the Exchange and each of its Affiliates.

The Exchange notes that the Exchange and its affiliated equities exchanges Cboe BYX Exchange, Inc. (''BYX''), Cboe BZX Exchange, Inc. (''BZX Equities''), and Cboe EDGA Exchange, Inc. (''EDGA'') already offer a similar data product, the Cboe One Summary Feed, which contains the aggregate best bid and offer of all displayed orders for securities traded on the Exchange and each of the Exchange's affiliated equities exchanges as well as last sale information for each of the Exchange and the Exchange's affiliated equities exchanges.[9] The Cboe One Summary Feed also consists of Symbol Summary, Market Status, Trading Status, and Trade Break messages for each of its affiliated equities exchanges.

Particularly, the Cboe One Options Feed will offer market participants with a new option for receiving Cboe market data that provides a consolidated view of activity on all Cboe options exchanges. The Exchange proposes to offer the Cboe One Options Feed voluntarily in response to demand from market participants (*e.g.,* retail brokerage firms) that are interested in receiving the aggregate top of book quotation and last sale information from the Cboe Options Exchanges as part of a single data feed. Specifically, Cboe One Options Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the Cboe One Options Feed. For example, today an entity can subscribe to various market data products offered by single exchanges and distribute or resell that data, either separately or in the aggregate, to their customers as part of their own market data offerings.[10] Distributors and vendors may incur administrative costs when consolidating and augmenting the data to meet their customer's need. Consequently, distributors and/or vendors may simply choose to not take the data from each of the Cboe Options Exchanges because of the effort and cost required to aggregate data from separate feeds into their existing products. The Exchange believes those same distributors and/or vendors may be interested in distributing the Cboe One Options Feed so that they may easily incorporate aggregated or summarized Cboe Options Exchange data into their own products without themselves incurring the costs of the repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual Cboe Options Exchanges. The Exchange therefore believes that the Cboe One Options Feed would provide high-quality, comprehensive last sale and top-of-book data for the Cboe Options Exchanges in a unified view and respond to demand for such a product.

The Exchange also notes that it has taken into consideration its affiliated relationship with its Affiliates in its design of Cboe One Options Feed to assure distributors and/or vendors would be able to resell and offer a similar product on the same terms as the Exchange, both from a perspective of latency and cost.

With respect to latency, the path for distribution by the Exchange of Cboe One Options Feed would not be faster than the path for distribution by a vendor that independently created a Cboe One Options Feed-like product could distribute its own product. As such, the proposed Cboe One Options data feed is a data product that a vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with Cboe Options, BZX Options and C2 Options, the Exchange represents that the source of the market data it would use to create the proposed Cboe One Options Feed is available to vendors. Specifically, the Exchange would use the following data feeds to create the proposed Cboe One Options Feed, each of which is available

[4] *See* Cboe Data Services, LLC Fee Schedule, C2 Options Exchange Fees Schedule, Cboe Data Services, LLC Fees, and BZX Rule 21.15.

[5] The Symbol Summary message will include the total executed volume across all Cboe Options Exchanges.

[6] The Market Status message is disseminated to reflect a change in the status of one of the Cboe Options Exchanges. For example, the Market Status message will indicate whether one of the Cboe Options Exchanges is experiencing a systems issue or disruption and quotation or trade information from that market is not currently being disseminated via the Cboe One Options Feed as part of the aggregated BBO. The Market Status message will also indicate when a Cboe Options Exchange is no longer experiencing a systems issue or disruption to properly reflect the status of the aggregated BBO.

[7] The Trade Break message will indicate when an execution on a Cboe Options Exchange is broken in accordance with the individual Cboe Options Exchange's rules (*e.g.,* Cboe Options Rule 6.5, C2 Option Rule 6.5, BZX Options Rule 20.6, EDGX Options Rule 20.6).

[8] The Trading Status message will indicate the current trading status of an option contract on each individual Cboe Options Exchange. A Trading Status message will also be sent whenever a security's trading status changes. For example, a Trading Status message will be sent when a symbol is open for trading or when a symbol is subject to a trading halt or when it resumes trading.

[9] *See* BZX Rule 11.22(j), BYX Rule 11.22(i), EDGA Rule 13.8(b) and EDGX Rule 13.8(b).

[10] For purposes of this filing, a ''vendor'', which is a type of distributor, will refer to any entity that receives an exchange market data product directly from the exchange or indirectly from another entity (for example, from an extranet) and then resells that data to a third-party customer (*e.g.,* a data provider that resells exchange market data to a retail brokerage firm). The term ''distributor'' herein, will refer to any entity that receives an exchange market data product, directly from the exchange or indirectly from another entity (*e.g.,* from a data vendor) and then distributes to individual internal or external end-users (*e.g.,* a retail brokerage firm who distributes exchange data to its individual employees and/or customers). An example of a vendor's ''third-party customer'' or ''customer'' is an institutional broker dealer or a retail broker dealer, who then may in turn distribute the data to their customers who are individual internal or external end-users.

to other vendors: the EDGX Options Top, Cboe Options Top Data, the C2 Options Top Data, and the BZX Options Top Feeds. The Cboe Options Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed Cboe One Options feed is the same as the source available to other vendors.

In order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process any entity would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed.[11] Therefore, a vendor that is located in the same facilities as the Exchange could obtain the underlying data feeds from the Cboe Options Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed Cboe One Options Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the Cboe One Options Feed from the Exchange. As such, the Exchange would not have any unfair advantage over vendors with respect to obtaining data from the individual Cboe Options Exchanges. In fact, the technology supporting the Cboe One Options Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a vendor located at the same facility as the Exchange. The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to its customers, whether those customers are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed, which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a vendor (or distributor) to obtain the underlying Cboe Options Exchanges' top-of-book data feeds. The pricing the Exchange would charge for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange intends to propose for the Cboe One Options Feed would be equal to the combined fees for subscribing to each individual data feed. Additionally, the Exchange also intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. The intended proposed pricing would therefore enable a vendor to create a competing product based on the individual data feeds and charge its customer a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

Implementation

The Exchange will announce when it intends to make available the Cboe One Options feed, subject to the effectiveness of the proposed rule change and the effectiveness of a rule filing to establish the fees (via a separate rule filing).[12]

2. Statutory Basis

The Exchange believes that the proposed Cboe One Options Feed is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market participants and Section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[15]

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act[16] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Cboe One Options Feed would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Particularly, the Exchange believes the proposed Cboe One Options Feed promotes transparency by disseminating the Cboe Options Exchanges' market data more widely through additional distribution channels, which will enable investors to better monitor trading activity on the Cboe Options Exchanges, and thereby serve the public interest. The Exchange is providing additional distribution channels because it believes market participants may be more inclined to purchase a combined data feed and redistribute it. Particularly, the Exchange believes that market

[11] The Exchange notes that it does not own the facilities in which its servers are located but is aware that there are vendors that currently locate their servers in the same facilities as the Exchange and on an equal basis as the Exchange. The Exchange is not aware of any reasons why vendors would not be able to locate their servers on an equal basis as the Exchange on an on-going basis.

[12] The Exchange also represents that should it wish to modify the proposed Cboe One Options Feed data product in the future, it will submit a proposed rule change as required under the Act.

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(8).

[16] 15 U.S.C. 78k–1.

participants would welcome a market data product that would provide high-quality, comprehensive top-of-book and last sale data for the Cboe Options Exchanges in a unified view (*i.e.,* the Cboe One Options Feed).

The Exchange also notes that it operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 18% of the market share.[17] The Exchange believes top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously with each other to provide efficient, reliable, and low-cost data to a wide range of investors and market participants. While there is not currently an aggregated top-of-book data product offered at competitor options exchanges, the quote and last sale data contained in the proposed Cboe One Options Feed is identical to data already provided in the Exchange's and its Affiliate's individual top-of-book data products as well as to the data sent to OPRA for redistribution to the public.[18] Accordingly, the Exchange believes market participants can substitute any individual or consolidated exchange top-of-book feeds with similar feeds from other exchanges and/or through OPRA with respect to the data contained in the proposed Cboe One Options Feed. Exchange top-of-book data is therefore widely available today from a number of different sources.

Moreover, exchange top-of-book data is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors or vendors are required by any rule or regulation to make this data available. Accordingly, distributors and vendors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, all broker-dealers involved in order routing must take consolidated data from OPRA, and proprietary data feeds cannot be used to meet that particular requirement. As such, all proprietary data feeds are optional.

Similar to exchanges' individual top-of-book data feeds, the proposed Cboe One Options Feed would be distributed and purchased on a voluntary basis, in that neither the Exchange, its Affiliates, nor market data distributors or vendors are required by any rule or regulation to make this data feed available. Accordingly, distributors and vendors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. The Exchange believes that the proposed Cboe One Options Feed will offer an alternative to subscribing to the Cboe Options Exchanges four individual top-of-book data feeds. Also, as noted above, there is a history of offering similar consolidated data products in the equities industry. Indeed, the Exchange's affiliated equities exchanges offer the Cboe One Summary Feed, which is a substantially similar data product which contains the aggregate BBO of all displayed orders for securities (instead of options) traded on the Cboe's equities exchanges, along with last sale information.[19] The Cboe One Summary Feed also consists of Symbol Summary, Market Status, Trading Status, and Trade Break messages.[20]

The Exchange believes the proposal would not permit unfair discrimination because the product will be available to all market data distributors and vendors on an equivalent basis. Any distributor or vendor that wishes to instead purchase one or more of the individual data feeds offered by the Cboe Options Exchanges separately will still be able to do so. Further, the Exchange and its Affiliates will continue to make the data contained in the proposed Cboe One Options Feed available no earlier than the time at which the exchanges send that data to OPRA. Market participants may therefore also substitute Cboe One Options Feed with feeds from other exchanges and/or through OPRA.

In addition, the Exchange does not believe that the proposal would permit unfair discrimination among customers, brokers, or dealers and thus is consistent with the Act because the Exchange will be offering the product on terms that a vendor could offer a competing product. Specifically, the proposed data feed merely represents an aggregation and consolidation of data contained in existing, previously filed individual market data products of the Cboe Options Exchanges. As such, a vendor could similarly obtain the underlying data feeds and perform a similar aggregation and consolidation function to create the same data product as being proposed with the same latency and cost as the Exchange.

The Exchange has taken into consideration its affiliated relationship with Cboe Options, BZX Options and C2 Options in its design of the Cboe One Options Feed to assure that distributors and/or vendors would be able to offer a similar product on the same terms as the Exchange, both from the perspective of latency and cost. As discussed above, the Exchange proposes to offer the Cboe One Options Feed voluntarily in response to demand from market participants such as retail brokerage firms that are interested in receiving and distributing the top-of-book quotation and last sale information from the Cboe Options Exchanges as part of a single data feed. Specifically, Cboe One Options Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the Cboe One Options Feed. The Cboe One Options Feed would help protect a free and open market by providing market participants additional choices in receiving this type of market data, thus promoting competition and innovation.

With respect to latency, the path for distribution by the Exchange of Cboe One Options Feed would not be faster than the path for distribution a vendor that independently created a Cboe One Options Feed-like product could distribute its own product. As such, the proposed Cboe One Options data feed is a data product that a vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with Cboe Options, BZX Options and C2 Options, the Exchange represents that the source of the market data it would use to create the proposed Cboe One Options Feed is available to other vendors. Specifically, the Exchange would use the following data feeds to create the proposed Cboe One Options Feed, each of which is available to other vendors: the EDGX Options Top, Cboe Options Top Data, the C2 Options Top Data, and the BZX Options Top Feeds. The Cboe Options Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed Cboe One Options feed is the same as the source available to other vendors.

In order to create the Cboe One Options Feed, the Exchange will receive

[17] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (January 9, 2023), available at *https://markets.cboe.com/us/options/market_statistics/*.

[18] The Exchange notes that it and its Affiliates, make available their respective top-of-book data and last sale data that is included in each exchange's top-of-book data feed no earlier than the time at which the Exchange sends that data to OPRA.

[19] *See* BZX Rule 11.22(j), BYX Rule 11.22(i), EDGA Rule 13.8(b) and EDGX Rule 13.8(b).

[20] *Id.*

the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process any vendor would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed. Therefore, a vendor that is located in the same facilities as the Exchange could obtain the underlying data feeds from the Cboe Options Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed Cboe One Options Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the Cboe One Options Feed from the Exchange. As such, the Exchange would not have any unfair advantage over vendors with respect to obtaining data from the individual Cboe Options Exchanges. In fact, the technology supporting the Cboe One Options Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a vendor located at the same facility as the Exchange. The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to customers, whether those customers are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed, which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed to offer and resell. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a vendor (or distributor) to obtain the underlying Cboe Options Exchanges' top-of-book data feeds. The pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange intends to propose for the Cboe One Options Feed would be equal to the combined fees for subscribing to each individual data feed.[21] The Exchange also intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. The intended proposed fees would therefore enable a vendor to create a product based on the individual data feeds and charge its clients a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Because the Exchange and its affiliates, along with other exchanges already offer the similar underlying data products, the Exchange's proposed Cboe One Options Feed will enhance competition. The Cboe One Options Feed will foster competition by providing an alternative market data product to those offered by those exchanges and/or OPRA. This proposed new data feed provides investors with new options for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[22] As the Cboe Options Exchanges are consistently one of the top exchange operators by market share for U.S. options trading the data included within the Cboe One Options Feed will provide investors a new option for obtaining a broad market view, consistent with the primary goal of the market data amendments adopted by Regulation NMS.

The Exchange believes the Cboe One Options Feed will further enhance competition by providing distributors and vendors with a data feed that allows them to more quickly and efficiently integrate into their existing products. For example, today, vendors may subscribe to various market data products offered by single exchanges and resell that data, either separately or in the aggregate, to their customers as part of their own market data offerings. Distributors and vendors may incur administrative costs when consolidating and augmenting the data to meet their customer's need. Consequently, many distributors and/or vendors will simply choose to not take the data from each of the Cboe Options Exchanges because of the effort and cost required to aggregate data from separate feeds into their existing products. Those same distributors and/or vendors may therefore be interested in the Cboe One Options Feed as they may easily incorporate aggregated or summarized Cboe Options Exchanges' data into their own products without themselves incurring the costs of the repackaging and aggregating the data it would receive by purchasing each market data product offered by the individual Cboe Options Exchanges separately. The Exchange therefore believes that by providing market data that encompasses combined data from affiliated exchanges, the Exchange enables vendors with the ability to compete in the provision of similar content with other vendors, where they may not have done so previously if they were required to purchase the top-of-book feeds from each individual Cboe options exchanges separately.

Although the Exchange considers the acceptance of the Cboe One Options Feed by distributors and vendors as important to the success of the product, depending on their needs, such distributors and vendors may choose not to subscribe to the Cboe One Options Feed and may rather receive the Cboe Options Exchanges' individual market data products and incorporate

[21] For example, the combined external distribution fee for the individual data feeds of the Cboe Options Exchanges is $10,000 per month (*i.e.,* the monthly external distribution fee is $5,000 per month for the Cboe Options Top, $2,500 per month for C2 Options Top $2,000 per month for BZX Options Top, and $500 for EDGX Options Top). The monthly Professional User fee for the individual data feeds of the Cboe Options Exchanges is $30.50 per Professional User (*i.e.,* the monthly Professional User fee is $15.50 per Professional User for the Cboe Options Top, $5 per Professional User for C2 Options Top; $5 per Professional User for BZX Options Top, and $5 per Professional User for EDGX Options Top). The combined monthly Non-Professional User fee for the individual data feeds of the Cboe Options Exchanges is $0.60 per Non-Professional User (*i.e.,* the monthly Non-Professional User fee is $0.30 per Non-Professional User for Cboe Options Top, $0.10 per Non-Professional User for C2 Options Top, $0.10 per Non-Professional User for BZX Options Top, and $0.10 per Non-Professional User for EDGX Options Top).

[22] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, at 37503 (June 29, 2005) (Regulation NMS Adopting Release).

them into their specific market data products. The Cboe One Options Feed simply provides another option for distributors and vendors to choose from when selecting a product that meets their market data needs.

Exchange Not the Exclusive Distributor of Cboe One Options Feed

Although the Cboe Options Exchanges are the exclusive distributors of the individual data feeds from which certain data elements would be taken to create the Cboe One Options Feed, the Exchange would not be the exclusive distributor of the aggregated and consolidated information that would compose the proposed Cboe One Options Feed. As discussed above, distributors and/or vendors would be able, if they chose, to create a data feed with the same information as the Cboe One Options Feed and distribute it to their clients on a level-playing field with respect to latency and cost as compared to the Exchange's proposed Cboe One Options Feed. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a distributor or vendor to obtain the underlying data feeds. In addition, the pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a distributor and/or vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange.

Latency

The Cboe One Options Feed is also not intended to compete with similar products offered by distributors. Rather, it is intended to assist them in incorporating aggregated and summarized data from the Cboe Options Exchanges into their own market data products that are provided to their customers. Therefore, distributors will receive the data, who will, in turn, make available Cboe One Options Feed to their end users, either separately or as incorporated into the various market data products they provide. As stated above distributors may prefer a product like the Cboe One Options Feed so that they may easily incorporate aggregated or summarized Cboe Options Exchange data into their own products without themselves incurring the administrative costs of repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual Cboe Options Exchanges.

Notwithstanding the above, the Exchange believes that vendors may create a product similar to Cboe One Options Feed based on the market data products offered by the individual Cboe Options Exchanges with no greater latency than the Exchange. As discussed above, in order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process a vendor would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed.

The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to their customers, whether those end users are also located in the same data center or not. Therefore, the Exchange believes that it will not incur any potential latency advantage that will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Cost

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed that would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed. The pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange proposes for the Cboe One Options Feed will be equal to the combined fees for subscribing to each individual data feed. Moreover, as discussed, the Exchange intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. Therefore, vendors would be enabled to create a competing product based on the individual data feeds and charge their clients a fee that they believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[23] and Rule 19b–4(f)(6)[24] 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–

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(6).

CboeEDGX–2023–007 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CboeEDGX–2023–007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2023–007 and should be submitted on or before March 10, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–03330 Filed 2–16–23; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96902; File No. SR–NYSEAMER–2023–11]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Rule 903

February 13, 2023.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on February 6, 2023, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 903 (Series of Options Open for Trading) and Rule 903, Commentary .10 regarding the Short Term Option Series Program. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 903 (Series of Options Open for Trading) and Rule 903 Commentary .10. (hereinafter, ''Commentary .10''). Specifically, the Exchange proposes to amend the Short Term Option Series Program to: (1) limit the number of Short Term Option Expiration Dates for options on SPDR S&P 500 ETF Trust (SPY), the INVESCO QQQ TrustSM, Series 1 (QQQ), and iShares Russell 2000 ETF (IWM) from five to two expirations for Monday and Wednesday expirations; and (2) expand the Short Term Option Series program to permit the listing and trading of options series with Tuesday and Thursday expirations for options on SPY and QQQ listed pursuant to the Short Term Option Series Program, subject to the same proposed limitation of two expirations. This is a competitive filing and is substantially identical to a rule recently approved on Nasdaq ISE, LLC (''Nasdaq ISE'').[4]

Curtail Short Term Option Expiration Dates

Currently, per Rule 903(h), after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day (''Short Term Option Opening Date'') series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays on which monthly options series or Quarterly Options Series expire (hereinafter referred to as ''Short Term Option Expiration Dates''). In addition, the Exchange may have no more than a total of five Short Term Option Expiration Dates not including any Monday or Wednesday SPY, QQQ, and IWM Expirations. Further, if the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date will be the first business day immediately prior to that Friday.

Today, per Commentary .10(f), with respect to Wednesday SPY, QQQ, and IWM Expirations, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on SPY, QQQ, and IWM to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series expire (''Wednesday SPY

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities and Exchange Act Release No. 96281 (November 9, 2022), 87 FR 68769 (November 16, 2022) (SR–ISE- 2022–18) (''ISE Approval Order'').

Expirations,'' ''Wednesday QQQ Expirations,'' and ''Wednesday IWM Expirations''). In addition, with respect to Monday SPY, QQQ, and IWM Expirations, the Exchange may open for trading on any Friday or Monday that is a business day series of options on the SPY, QQQ, or IWM to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series expire (''Monday SPY Expirations,'' ''Monday QQQ Expirations,'' and ''Monday IWM Expirations''), provided that Monday SPY Expirations, Monday QQQ Expirations, and Monday IWM Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. In addition, the Exchange may list up to five consecutive Wednesday SPY Expirations, Wednesday QQQ Expirations, and Wednesday IWM Expirations and five consecutive Monday SPY Expirations, Monday QQQ Expirations, and Monday IWM Expirations at one time; the Exchange may have no more than a total of five each of Wednesday SPY Expirations, Wednesday QQQ Expirations, and Wednesday IWM Expirations and a total of five each of Monday SPY Expirations, Monday QQQ Expirations, and Monday IWM Expirations. Monday and Wednesday SPY Expirations, Monday and Wednesday QQQ Expirations, and Monday and Wednesday IWM Expirations are subject to Commentary .10(f).

Proposal

At this time, the Exchange proposes to curtail the number of Short Term Option Expiration Dates from five to two [5] for SPY, QQQ and IWM for Monday and Wednesday Expirations, as well as the proposed Tuesday and Thursday Expirations in SPY and QQQ, which expirations are set forth in Commentary .10(f). To effectuate this change, the Exchange proposes new paragraph (f) (which incorporates current paragraph (f)) as set forth below.[6]

Proposed Commentary .10(f), entitled ''Short Term Option Daily Expirations'', would limit to two the number of option series in symbols (set forth in ''Table 1'') that expire at the close of business beyond the current week for each of the following two Mondays, Tuesdays, Wednesdays, and Thursdays (collectively, the ''Short Term Expiration Dates'') as set forth below:

* * * * *

TABLE 1

Symbol	Number of expirations			
	Monday	Tuesday	Wednesday	Thursday
SPY	2	2	2	2
IWM	2	0	2	0
QQQ	2	2	2	2

* * * * *

As shown above, Table 1 sets forth the number of permissible expirations for each symbol as well as permissible expiration days. Specifically, the Exchange proposes to include Monday and Wednesday expirations for SPY, QQQ, and IWM and Tuesday and Thursday expirations for SPY and QQQ and list ''2'' as the number of permissible expirations for these symbols. The Exchange's proposal to permit Tuesday and Thursday expirations for options on SPY and QQQ listed pursuant to the Short Term Option Series Program is explained below in more detail. In the event Short Term Option Daily Expirations expire on the same day in the same class as a monthly options series or a Quarterly Options Series, the Exchange would skip that week's listing and instead list the following week; the two weeks of Short Term Option Expiration Dates would therefore not be consecutive. To this end, specifically, the Exchange proposes to state within Commentary .10(f):

In addition to the above, the Exchange may open for trading series of options on the symbols provided in Table 1 below that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays beyond the current week, respectively, that are business days and are not business days on which monthly options series or Quarterly Options Series expire (''Short Term Option Daily Expirations''). The Exchange may have no more than a total of two Short Term Option Daily Expirations beyond the current week for each of Monday, Tuesday, Wednesday, and Thursday expirations at one time. Short Term Option Daily Expirations would be subject to this paragraph (f).

In connection with the foregoing change, the Exchange proposes to modify Rule 903 (h) to distinguish the expirations set forth in Table 1 from other permissible expirations. Specifically, SPY, QQQ, and IWM Friday expirations and other option symbols expiring on a Friday (that are not noted in Table 1) will continue to have a total of five Short Term Option Expiration Dates, provided those Friday expirations are not Fridays on which monthly options series or Quarterly Options Series expire and will be referred to as ''Friday Short Term Option Expiration Dates''.[7] In addition, these expirations would be referred to as ''Short Term Option Weekly Expirations'' to distinguish them from the proposed expirations that would be subject to Table 1 (*i.e.,* Short Term Option Daily Expirations).[8]

Finally, proposed Commentary .10(f) would provide that Monday Short Term Option Expiration Dates, Tuesday Short Term Option Expiration Dates, Wednesday Short Term Option Expiration Dates, and Thursday Short Term Option Expiration Dates, together with Friday Short Term Option Expiration Dates, would collectively refer to ''Short Term Option Expiration Dates.'' [9]

Tuesday and Thursday Expirations

At this time, the Exchange proposes to expand the Short Term Option Series Program to permit the listing and trading of no more than a total of two consecutive Tuesday and Thursday expirations (*i.e.,* ''Tuesday Short Term Option Daily Expirations'' and ''Thursday Short Term Option Daily Expirations'') beyond the current week each for SPY and QQQ. Tuesday and Thursday Short Term Option Daily Expirations would be subject to proposed Commentary .10(f).

[5] The Exchange proposes to list the two front weeks for Short Term Options Daily Expirations.

[6] *See* proposed Rule 903, Commentary .10(f).

[7] *See* proposed Commentary .10(a).

[8] *Id.*

[9] Defining the term ''Short Term Option Expiration Dates'' will make clear that this term includes expiration dates for each day Short Term Options are listed.

Currently, series listed pursuant to the Short Term Option Series program are series in an option class that is approved for listing and trading on the Exchange in which the series opened for trading on any Monday, Tuesday, Wednesday, Thursday, or Friday (as applicable) that is a business day and that expires on the Monday, Wednesday, or Friday of the following business week that is a business day, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday, or Friday is not a business day, the series may be opened (or will expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday, or Friday. For a series listed for Monday expiration, if a Monday is not a business day, the series will expire on the first business day immediately following that Monday.[10]

Current (and proposed) Commentary .10(f), which sets forth the requirements for SPY and QQQ options that are listed pursuant to the Short Term Option Series Program as Short Term Option Daily Expirations, will be modified to accommodate the listing of options series that expire on Tuesdays and Thursdays. Similar to Monday and Wednesday SPY, QQQ, and IWM Short Term Option Daily Expirations, per current (and proposed) Commentary .10(f), the Exchange proposes that it may open for trading on any Monday or Tuesday that is a business day series of options in symbols set forth in Table 1 that expire at the close of business on each of the next two Tuesdays beyond the current week that are business days and are not business days in which monthly options series or Quarterly Options Series expire (''Tuesday Short Term Option Expiration Date'').[11]

Likewise, per proposed Commentary .10(f), the Exchange may open for trading on any Wednesday or Thursday that is a business day series of options on symbols set forth in Table 1 that expire at the close of business on each of the next two Thursdays that are business days and are not business days in which monthly options series or Quarterly Options Series expire (''Thursday Short Term Option Expiration Date'').

In the event that options on SPY and QQQ expire on a Tuesday or Thursday and that Tuesday or Thursday is the same day that a monthly option series or Quarterly Options Series expires, the Exchange would skip that week's listing and instead list the following week; the two weeks would therefore not be consecutive. Today, Monday and Wednesday Expirations in SPY, QQQ, and IWM skip the weekly listing in the event the weekly listing expires on the same day in the same class as a Quarterly Options Series. Currently, there is no rule text provision that states that Monday and Wednesday Expirations in SPY, QQQ, and IWM skip the weekly listing in the event the weekly listing expires on the same day in the same class as a monthly option series. Practically speaking, Monday and Wednesday Expirations in SPY, QQQ, and IWM would not expire on the same day as a monthly expiration.

The interval between strike prices for the proposed Tuesday and Thursday SPY and QQQ Short Term Option Daily Expirations will be the same as those for the current Short Term Option Series for Monday, Wednesday, and Friday expirations applicable to the Short Term Option Series Program.[12] Specifically, the Tuesday and Thursday SPY and QQQ Short Term Option Daily Expirations will have a $0.50 strike interval minimum.[13] As is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Tuesday and Thursday SPY and QQQ Short Term Option Daily Expiration series will be P.M.-settled.

Pursuant to proposed Commentary .10(f), with respect to the Short Term Option Series Program, a Tuesday or Thursday expiration series will expire on the first business day immediately prior to that Tuesday or Thursday, *e.g.,* Monday or Wednesday of that week, respectively, if the Tuesday or Thursday is not a business day.

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[14] The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.[15] This thirty (30) series restriction would apply to Tuesday and Thursday SPY and QQQ Short Term Option Daily Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list SPY and QQQ options expiring on Tuesdays and Thursdays with a limit of two Tuesday Short Term Daily Expirations and two Thursday Short Term Daily Expirations beyond the current week.

In addition, today, with the exception of Monday and Wednesday SPY Expirations, Monday and Wednesday QQQ Expirations, and Monday and Wednesday IWM Expirations, no Short Term Option Series may expire in the same week in which monthly option series on the same class expire. With this proposal, Tuesday and Thursday SPY Expirations and Tuesday and Thursday QQQ Expirations would be treated similarly to existing Monday and Wednesday SPY, QQQ, and IWM Expirations. Specifically, with respect to monthly option series, Short Term Option Daily Expirations will be permitted to expire in the same week in which monthly option series in the same class expire.[16] Not listing Short Term Option Daily Expirations for one week every month because there was a monthly on that same class on the Friday of that week would create investor confusion.

Further, as with Monday and Wednesday SPY, QQQ, and IWM Expirations, the Exchange would not permit Tuesday and Thursday Short Term Option Daily Expirations to expire on a business day in which monthly options series or Quarterly Options Series expire.[17] Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days on which monthly options series or Quarterly Options Series expire. The Exchange believes that it is reasonable to not permit two expirations on the same day in which a monthly options series or a Quarterly Options Series would expire.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Tuesday and Thursday Short Term Option Daily Expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Tuesday and Thursday Short Term Option Daily Expirations. The Exchange currently

[10] *See* Commentary .10(f)

[11] *See* proposed Commentary .10(f).

[12] *See* Commentary .10(d).

[13] *See id.*

[14] *See* Commentary .10(a).

[15] *See id.*

[16] *See* proposed Commentary .10(f).

[17] While the Exchange proposes to add rule text within Commentary .10(f) with respect to Monday Expirations, Tuesday Expirations, and Wednesday Expirations stating that those expirations would not expire on business days that are business days on which monthly options series expire, practically speaking this would not occur.

trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY, QQQ and IWM and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY, QQQ and IWM.

Impact of Proposal

The Exchange notes that listings in the Short Term Option Series Program comprise a significant part of the standard listing in options markets. The below tables sets forth the percentage of weekly listings as compared to monthly, quarterly, and Long-Term Option Series in 2020 and 2022 in the options industry.[18] The weekly strikes decreased from 24% to19% in these two years. The Exchange notes that during this timeframe, all options exchanges mitigated weekly strike intervals.

NUMBER OF STRIKES—2020

Expiration	Percent of total series
Monthly	59
Weekly	24
LEAP	16
Quarterly	1

NUMBER OF STRIKES—2022

Expiration	Percent of total series
Monthly	64
Weekly	19
LEAP	17
Quarterly	0

By limiting the number of Short Term Option Daily Expirations for SPY, QQQ, and IWM to two expirations for Monday and Wednesday expirations, and expanding the Short Term Option Series Program to permit Tuesday and Thursday expirations for SPY and QQQ, the Exchange anticipates that it would overall reduce the number of weekly expiration dates. With respect to SPY, the reduction from five to two expirations will reduce 11.80% of strikes on SPY with Monday and Wednesday expirations. With respect to QQQ, the reduction from five to two expirations will reduce 12.86% of strikes on QQQ with Monday and Wednesday expirations. With respect to IWM, the reduction from five to two expirations will reduce 11.86% of strikes on IWM with Monday and Wednesday expirations. Additionally, expanding the Short Term Option Series Program to permit the listing of Tuesday and Thursday expirations in SPY and QQQ will account for the addition of 7.86% of strikes in SPY and the addition of 8.57% of strikes in QQQ. Therefore, the total net reduction would be 3.94% for SPY and 4.29% for QQQ.[19] The overall reduction offered by this proposal reduces the number of Short Term Option Expirations to be listed on the Exchange and should encourage Market-Makers to continue to deploy capital more efficiently and improve displayed market quality.[20] Also, the Exchange's proposal curtails the number of expirations in SPY, QQQ, and IWM without reducing the classes of options available for trading on the Exchange. The Exchange believes that despite the proposed curtailment of expirations, Trading Permit Holders will continue to be able to expand hedging tools because all days of the week would be available to permit Trading Permit Holders to tailor their investment and hedging needs more effectively in SPY and QQQ.

TOTAL VOLUME—2022

[Through August 18]

Expiration	Percent of total series
Monthly	39
Weekly	48
LEAP	12
Quarterly	1

Weeklies comprise 48% of the total volume of options listings.[21] The Exchange believes that inner weeklies represent high volume as compared to outer weeklies and would be more attractive to market participants. Similar to SPY, QQQ and IWM Monday and Wednesday Expirations, the introduction of SPY and QQQ Tuesday and Thursday expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that SPY and QQQ Tuesday and Thursday expirations will allow market participants to purchase SPY and QQQ options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

Implementation

The Exchange will announce the implementation of this proposal via Trader Update to be published no later than 60 days following the effectiveness of this this rule. Notwithstanding this implementation, Monday and Wednesday Expirations in SPY, QQQ, and IWM that were listed prior to the date of implementation will continue to be listed on the Exchange until those options expire pursuant to current Commentary .10 regarding Short Term Option Series.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[22] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[23] 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)[24] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposal is consistent with the Act as the overall reduction offered by this proposal reduces the number of Short Term Option Expirations to be listed on the Exchange. This reduction would remove impediments to and perfect the mechanism of a free and open market by encouraging Market-Makers to continue to deploy capital more efficiently and improve displayed market quality.[25] Also, the Exchange's

[18] Nasdaq ISE sourced this information from The Options Clearing Corporation (''OCC''). The information includes time averaged data for all 16 options markets up to August 18, 2022. *See* ISE Approval Order, supra note 4.

[19] Nasdaq ISE sourced this information, which are estimates, from LiveVol®. The information includes data for all 16 options markets as of August 18, 2022. *See id.*

[20] Market Makers (including Specialists and e-Specialists) are required to quote a specified time in their assigned options series. *See* Rules 925NY and 925.1NY.

[21] This table sets forth industry volume. Weeklies comprise 48% of volume while only being 19% of the strikes. Nasdaq ISE sourced this information from OCC. The information includes data for all 16 options markets as of August 18, 2022. *See* ISE Approval Order, *supra* note 4.

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[24] *Id.*

[25] Market Makers (including Specialists and e-Specialists) are required to quote a specified time

Continued

proposal curtails the number of Monday, Tuesday, Wednesday, and Thursday expirations in SPY, QQQ, and IWM without reducing the classes of options available for trading on the Exchange. The Exchange believes that despite the proposed curtailment of expirations, Trading Permit Holders will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in SPY, QQQ, and IWM.

Similar to SPY, QQQ, and IWM Monday and Wednesday Expirations (proposed to be SPY, QQQ and IWM Monday and Wednesday Short Term Daily Expirations), the introduction of SPY and QQQ Tuesday and Thursday Short Term Daily Expirations is consistent with the Act as it will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that SPY and QQQ Tuesday and Thursday expirations (proposed to be SPY and QQQ Tuesday and Thursday Short Term Daily Expirations) will allow market participants to purchase SPY and QQQ options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively. Further, the proposal to permit Tuesday and Thursday Short Term Daily Expirations for options on SPY and QQQ listed pursuant to the Short Term Option Series Program, subject to the proposed limitation of two expirations, would protect investors and the public interest by providing the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in SPY and QQQ options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that Tuesday and Thursday SPY and QQQ Short Term Daily Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging. Similarly, the Exchange believes Tuesday and Thursday SPY and QQQ Short Term Daily Expirations should create greater trading and hedging opportunities and flexibility and will provide customers with the ability to tailor their investment objectives more effectively. The Exchange currently lists Monday and Wednesday SPY, QQQ, and IWM Expirations (proposed to be SPY, QQQ, and IWM Monday and Wednesday ''Short Term Daily Expirations'').[26]

Today, with the exception of Monday and Wednesday SPY Expirations, Monday and Wednesday QQQ Expirations, and Monday and Wednesday IWM Expirations, no Short Term Option Series may expire in the same week in which monthly option series on the same class expire. With this proposal, Tuesday and Thursday SPY Expirations and Tuesday and Thursday QQQ Expirations would be treated similarly to existing Monday and Wednesday SPY, QQQ, and IWM Expirations. The Exchange believes that permitting Short Term Option Daily Expirations to expire in the same week that standard monthly options expire on Fridays is consistent with Act. Not listing Short Term Option Daily Expirations for one week every month because there was a monthly on that same class on the Friday of that week would create investor confusion.

Further, as with Monday and Wednesday SPY, QQQ, and IWM Expirations, the Exchange would not permit Tuesday and Thursday Short Term Option Daily Expirations to expire on a business day in which monthly options series or Quarterly Options Series expire. Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which monthly options series or Quarterly Options Series expire. The Exchange believes that it is consistent with the Act to not permit two expirations on the same day in which a monthly options series or a Quarterly Options Series would expire similar to Monday and Wednesday SPY, QQQ, and IWM Expirations.

There are no material differences in the treatment of Wednesday SPY and QQQ expirations for Short Term Option Series as compared to the proposed Tuesday and Thursday SPY and QQQ Short Term Daily Expirations. Given the similarities between Wednesday SPY, QQQ and IWM Expirations and the proposed Tuesday and Thursday SPY and QQQ Short Term Daily Expirations, the Exchange believes that applying the provisions in Commentary .10(f) that currently apply to Wednesday SPY, QQQ and IWM Expirations to Tuesday and Thursday SPY and QQQ Short Term Daily Expirations (per proposed Commentary .10(f)) is justified.

The Exchange further represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed Tuesday and Thursday SPY and QQQ Short Term Daily Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY, QQQ, and IWM Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Tuesday and Thursday SPY and QQQ Short Term Daily Expirations.

Finally, the Exchange notes the proposed rule change is substantively the same as a rule change proposed by Nasdaq ISE, which the Commission recently approved.[27]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal will provide an overall reduction in the number of Short Term Option Expirations to be listed on the Exchange. The Exchange believes this reduction will not impose an undue burden on competition, rather, it should encourage Market-Makers to continue to deploy capital more efficiently and improve displayed market quality.[28] Also, the Exchange's proposal curtails the number of weekly expirations in SPY, QQQ, and IWM without reducing the classes of options available for trading on the Exchange. The Exchange believes that despite the proposed curtailment of weekly expirations, Trading Permit Holders will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in SPY, QQQ, and IWM.

Similar to SPY, QQQ and IWM Monday and Wednesday Expirations, the Exchange believes the introduction of SPY and QQQ Tuesday and Thursday Short Term Daily Expirations will not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants and continue the reduction

in their assigned options series. *See* Rules 925NY and 925.1NY.

[26] *See* Commentary .10(f) and proposed Commentary .10(f).

[27] *See* ISE Approval Order, *supra* note 4.

[28] Market Makers (including Specialists and e-Specialists) are required to quote a specified time in their assigned options series. *See* Rules 925NY and 925.1NY.

of the premium cost of buying protection. The Exchange believes that SPY and QQQ Tuesday and Thursday Short Term Daily Expirations will allow market participants to purchase SPY and QQQ options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively. The Exchange does not believe the proposal will impose any burden on intermarket competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Short Term Option Series with Tuesday and Thursday Short Term Daily Expirations. The Exchange notes that having Tuesday and Thursday SPY and QQQ expirations is not a novel proposal, as Wednesday SPY, QQQ and IWM Expirations are currently listed on the Exchange.[29] Additionally, as noted above, the Commission recently approved a substantively identical proposal of another exchange.[30] Further, the Exchange does not believe the proposal will impose any burden on intramarket competition, as all market participants will be treated in the same manner under this proposal.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[31] and Rule 19b–4(f)(6) thereunder.[32] Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[33] and subparagraph (f)(6) of Rule 19b–4 thereunder.[34]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[35] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[36] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Commission notes that it recently approved Nasdaq ISE's substantially similar proposal.[37] The Exchange has stated that waiver of the 30-day operative delay will allow the Exchange to implement the proposal at the same time as its competitor exchanges, thus creating competition among Short Term Option Series throughout the industry. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[38]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule 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–NYSEAMER–2023–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2023–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2023–11 and should be submitted on or before March 10, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–03332 Filed 2–16–23; 8:45 am]

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[29] *See* Commentary .10(f).

[30] *See* ISE Approval Order, *supra* note 4.

[31] 15 U.S.C. 78s(b)(3)(A)(iii).

[32] 17 CFR 240.19b–4(f)(6).

[33] 15 U.S.C. 78s(b)(3)(A)(iii).

[34] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[35] 17 CFR 240.19b–4(f)(6).

[36] 17 CFR 240.19b–4(f)(6)(iii).

[37] *See* Securities Exchange Act Release No. 96281 (November 9, 2022), 87 FR 68769 (November 11, 2022) (SR–ISE–2022–18).

[38] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[39] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34832; 812–15353]

Carlyle AlpInvest Private Markets Fund, et al.

February 13, 2023.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 18(a)(2), 18(c) and 18(i) of the Act and for an order pursuant to section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered closed-end management investment companies to issue multiple classes of shares of beneficial interest with varying sales loads and to impose asset-based distribution and/or service fees.

APPLICANTS: Carlyle AlpInvest Private Markets Fund (the ''Initial Fund''), and AlpInvest Private Equity Investment Management, LLC (the ''Adviser'').

FILING DATE: The application was filed on June 16, 2022 and amended on July 20, 2022, November 10, 2022 and January 24, 2023.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the Commission's Secretary at *Secretarys-Office@sec.gov* and serving the relevant Applicant with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below.

Hearing requests should be received by the Commission by 5:30 p.m. on March 10, 2023, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Cameron Fairall, Carlyle AlpInvest Private Markets Fund, One Vanderbilt Avenue, Suite 3400, New York, NY 10017; Michael G. Doherty, *Michael.Doherty@ropesgray.com* and Gregory C. Davis, *Gregory.Davis@ropesgray.com.*

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel or Lisa Reid Ragen, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and condition, please refer to Applicants' third amended and restated application, dated January 24, 2023, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at, at *http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–03342 Filed 2–16–23; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96890; File No. SR–CboeBZX–2023–004]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a New Data Product Called the Cboe One Options Feed

February 13, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 30, 2023, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, 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 BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') proposes to adopt a new data product called the Cboe One Options Feed. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to establish a new market data product called the Cboe One Options Feed. The Exchange also proposes to amend Exchange Rule 21.15(b) to add a description of the Cboe One Options Feed under new subparagraph (7) [sic]. As described more fully below, the Cboe One Options Feed is a data feed that that will offer top of book quotations and execution information based on options orders entered into the Exchange System and its affiliated options exchanges Cboe Exchange, Inc. (''Cboe Options''), Cboe C2 Exchange, Inc. (''C2 Options''), and Cboe EDGX Exchange, Inc. (''EDGX Options'') (collectively, the ''Affiliates'' and collectively with the Exchange, the ''Cboe Options Exchanges'') and for which the Cboe Options Exchanges report quotes under the OPRA Plan.[3]

Currently, the Exchange offers BZX Options Top feed, which is an uncompressed data feed that offers top-of-book quotations and last sale

[3] The Exchange understands that each of the Cboe Options Exchanges will separately file substantially similar proposed rule changes to implement Cboe One Options Feed and its related fees.

information based on options orders entered into the Exchange's System. The BZX Options Top feed benefits investors by facilitating their prompt access to real-time top-of-book information contained in BZX Options Top. The Exchange notes that BZX Options Top is ideal for market participants requiring both quote and trade data. The Exchange's Affiliates also offer similar top-of-book data.[4] Particularly, each of the Exchange's Affiliates offer top-of-book quotation and last sale information based on their own quotation and trading activity that is substantially similar to the information provided by the Exchange through the BZX Options Top feed. Further, the quote and last sale data contained in the Exchange's Affiliates top feeds is identical to the data sent to OPRA for redistribution to the public.

The Exchange now proposes to adopt a market data product that will provide top-of-book quotation and last sale information based on the quotation and trading activity on the Exchange and each of its Affiliates, which the Exchange believes will offer a comprehensive and highly representative view of U.S. options pricing to market participants. More specifically, the proposed Cboe One Options Feed will contain the aggregate best bid and offer (''BBO'') of all displayed orders for options traded on the Exchange and its Affiliates, as well as individual last sale information and volume, for options traded on the Exchange, which includes the price, time of execution and individual Cboe options exchange on which the trade was executed. The Cboe One Options Feed will also consist of Symbol Summary,[5] Market Status,[6] Trading Status,[7] and Trade Break[8] messages for the Exchange and each of its Affiliates.

The Exchange notes that the Exchange and its affiliated equities exchanges Cboe BYX Exchange, Inc. (''BYX''), Cboe EDGA Exchange, Inc. (''EDGA'') and Cboe EDGX Exchange, Inc. (''EDGX Equities'') already offer a similar data product, the Cboe One Summary Feed, which contains the aggregate best bid and offer of all displayed orders for securities traded on the Exchange and each of the Exchange's affiliated equities exchanges as well as last sale information for each of the Exchange and the Exchange's affiliated equities exchanges.[9] The Cboe One Summary Feed also consists of Symbol Summary, Market Status, Trading Status, and Trade Break messages for the Exchange and each of its affiliated equities exchanges.

Particularly, the Cboe One Options Feed will offer market participants with a new option for receiving Cboe market data that provides a consolidated view of activity on all Cboe options exchanges. The Exchange proposes to offer the Cboe One Options Feed voluntarily in response to demand from market participants (*e.g.,* retail brokerage firms) that are interested in receiving the aggregate top of book quotation and last sale information from the Cboe Options Exchanges as part of a single data feed. Specifically, Cboe One Options Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the Cboe One Options Feed. For example, today an entity can subscribe to various market data products offered by single exchanges and distribute or resell that data, either separately or in the aggregate, to their customers as part of their own market data offerings.[10] Distributors and vendors may incur administrative costs when consolidating and augmenting the data to meet their customer's need. Consequently, distributors and/or vendors may simply choose to not take the data from each of the Cboe Options Exchanges because of the effort and cost required to aggregate data from separate feeds into their existing products. The Exchange believes those same distributors and/or vendors may be interested in distributing the Cboe One Options Feed so that they may easily incorporate aggregated or summarized Cboe Options Exchange data into their own products without themselves incurring the costs of the repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual Cboe Options Exchanges. The Exchange therefore believes that the Cboe One Options Feed would provide high-quality, comprehensive last sale and top-of-book data for the Cboe Options Exchanges in a unified view and respond to demand for such a product.

The Exchange also notes that it has taken into consideration its affiliated relationship with its Affiliates in its design of Cboe One Options Feed to assure distributors and/or vendors would be able to resell and offer a similar product on the same terms as the Exchange, both from a perspective of latency and cost.

With respect to latency, the path for distribution by the Exchange of Cboe One Options Feed would not be faster than the path for distribution by a vendor that independently created a Cboe One Options Feed-like product could distribute its own product. As such, the proposed Cboe One Options data feed is a data product that a vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with Cboe Options, EDGX Options and C2 Options, the Exchange represents that the source of the market data it would use to create the proposed Cboe One Options Feed is available to vendors. Specifically, the Exchange would use the following data feeds to create the proposed Cboe One

[4] *See* Cboe Data Services, LLC Fee Schedule, C2 Options Exchange Fees Schedule, Cboe Data Services, LLC Fees, and EDGX Rule 21.15.

[5] The Symbol Summary message will include the total executed volume across all Cboe Options Exchanges.

[6] The Market Status message is disseminated to reflect a change in the status of one of the Cboe Options Exchanges. For example, the Market Status message will indicate whether one of the Cboe Options Exchanges is experiencing a systems issue or disruption and quotation or trade information from that market is not currently being disseminated via the Cboe One Options Feed as part of the aggregated BBO. The Market Status message will also indicate when a Cboe Options Exchange is no longer experiencing a systems issue or disruption to properly reflect the status of the aggregated BBO.

[7] The Trade Break message will indicate when an execution on a Cboe Options Exchange is broken in accordance with the individual Cboe Options Exchange's rules (*e.g.,* Cboe Options Rule 6.5, C2 Option Rule 6.5, BZX Options Rule 20.6, EDGX Options Rule 20.6).

[8] The Trading Status message will indicate the current trading status of an option contract on each individual Cboe Options Exchange. A Trading Status message will also be sent whenever a security's trading status changes. For example, a Trading Status message will be sent when a symbol is open for trading or when a symbol is subject to a trading halt or when it resumes trading.

[9] *See* BZX Rule 11.22(j), BYX Rule 11.22(i), EDGA Rule 13.8(b) and EDGX Rule 13.8(b).

[10] For purposes of this filing, a ''vendor'', which is a type of distributor, will refer to any entity that receives an exchange market data product directly from the exchange or indirectly from another entity (for example, from an extranet) and then resells that data to a third-party customer (*e.g.,* a data provider that resells exchange market data to a retail brokerage firm). The term ''distributor'' herein, will refer to any entity that receives an exchange market data product, directly from the exchange or indirectly from another entity (*e.g.,* from a data vendor) and then distributes to individual internal or external end-users (*e.g.,* a retail brokerage firm who distributes exchange data to its individual employees and/or customers). An example of a vendor's ''third-party customer'' or ''customer'' is an institutional broker dealer or a retail broker dealer, who then may in turn distribute the data to their customers who are individual internal or external end-users.

Options Feed, each of which is available to other vendors: the BZX Options Top, Cboe Options Top Data, the C2 Options Top Data, and the EDGX Options Top Feeds. The Cboe Options Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed Cboe One Options feed is the same as the source available to other vendors.

In order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process any entity would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed.[11] Therefore, a vendor that is located in the same facilities as the Exchange could obtain the underlying data feeds from the Cboe Options Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed Cboe One Options Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the Cboe One Options Feed from the Exchange. As such, the Exchange would not have any unfair advantage over vendors with respect to obtaining data from the individual Cboe Options Exchanges. In fact, the technology supporting the Cboe One Options Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a vendor located at the same facility as the Exchange. The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to its customers, whether those customers are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed, which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a vendor (or distributor) to obtain the underlying Cboe Options Exchanges' top-of-book data feeds. The pricing the Exchange would charge for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange intends to propose for the Cboe One Options Feed would be equal to the combined fees for subscribing to each individual data feed. Additionally, the Exchange also intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. The intended proposed pricing would therefore enable a vendor to create a competing product based on the individual data feeds and charge its customer a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

Implementation

The Exchange will announce when it intends to make available the Cboe One Options feed, subject to the effectiveness of the proposed rule change and the effectiveness of a rule filing to establish the fees (via a separate rule filing).[12]

2. Statutory Basis

The Exchange believes that the proposed Cboe One Options Feed is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest, and that it is not designed to permit unfair discrimination among customers, brokers, or dealers. The Exchange also believes this proposal is consistent with Section 6(b)(5) of the Act because it protects investors and the public interest and promotes just and equitable principles of trade by providing investors with new options for receiving market data as requested by market participants and Section 6(b)(8) of the Act, which requires that the rules of an exchange not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.[15]

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act[16] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Exchange believes that the proposed Cboe One Options Feed would further broaden the availability of U.S. option market data to investors consistent with the principles of Regulation NMS. Particularly, the Exchange believes the proposed Cboe One Options Feed promotes transparency by disseminating the Cboe Options Exchanges' market data more widely through additional distribution channels, which will enable investors to better monitor trading activity on the Cboe Options Exchanges, and thereby serve the public interest. The Exchange is providing additional distribution channels because it believes market participants may be more inclined to purchase a combined data feed and redistribute it. Particularly, the Exchange believes that market

[11] The Exchange notes that it does not own the facilities in which its servers are located but is aware that there are vendors that currently locate their servers in the same facilities as the Exchange and on an equal basis as the Exchange. The Exchange is not aware of any reasons why vendors would not be able to locate their servers on an equal basis as the Exchange on an on-going basis.

[12] The Exchange also represents that should it wish to modify the proposed Cboe One Options Feed data product in the future, it will submit a proposed rule change as required under the Act.

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(8).

[16] 15 U.S.C. 78k–1

participants would welcome a market data product that would provide high-quality, comprehensive top-of-book and last sale data for the Cboe Options Exchanges in a unified view (*i.e.,* the Cboe One Options Feed).

The Exchange also notes that it operates in a highly competitive environment. Indeed, there are currently 16 registered options exchanges that trade options. Based on publicly available information, no single options exchange has more than 18% of the market share.[17] The Exchange believes top-of-book quotation and transaction data is highly competitive as national securities exchanges compete vigorously with each other to provide efficient, reliable, and low-cost data to a wide range of investors and market participants. While there is not currently an aggregated top-of-book data product offered at competitor options exchanges, the quote and last sale data contained in the proposed Cboe One Options Feed is identical to data already provided in the Exchange's and its Affiliate's individual top-of-book data products as well as to the data sent to OPRA for redistribution to the public.[18] Accordingly, the Exchange believes market participants can substitute any individual or consolidated exchange top-of-book feeds with similar feeds from other exchanges and/or through OPRA with respect to the data contained in the proposed Cboe One Options Feed. Exchange top-of-book data is therefore widely available today from a number of different sources.

Moreover, exchange top-of-book data is distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors or vendors are required by any rule or regulation to make this data available. Accordingly, distributors and vendors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Further, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers. Moreover, all broker-dealers involved in order routing must take consolidated data from OPRA, and proprietary data feeds cannot be used to meet that particular requirement. As such, all proprietary data feeds are optional.

Similar to exchanges' individual top-of-book data feeds, the proposed Cboe One Options Feed would be distributed and purchased on a voluntary basis, in that neither the Exchange, its Affiliates, nor market data distributors or vendors are required by any rule or regulation to make this data feed available. Accordingly, distributors and vendors can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. The Exchange believes that the proposed Cboe One Options Feed will offer an alternative to subscribing to the Cboe Options Exchanges four individual top-of-book data feeds. Also, as noted above, there is a history of offering similar consolidated data products in the equities industry. Indeed, the Exchange and its affiliated equities exchanges offer the Cboe One Summary Feed, which is a substantially similar data product which contains the aggregate BBO of all displayed orders for securities (instead of options) traded on the Cboe's equities exchanges, along with last sale information.[19] The Cboe One Summary Feed also consists of Symbol Summary, Market Status, Trading Status, and Trade Break messages.[20]

The Exchange believes the proposal would not permit unfair discrimination because the product will be available to all market data distributors and vendors on an equivalent basis. Any distributor or vendor that wishes to instead purchase one or more of the individual data feeds offered by the Cboe Options Exchanges separately will still be able to do so. Further, the Exchange and its Affiliates will continue to make the data contained in the proposed Cboe One Options Feed available no earlier than the time at which the exchanges send that data to OPRA. Market participants may therefore also substitute Cboe One Options Feed with feeds from other exchanges and/or through OPRA.

In addition, the Exchange does not believe that the proposal would permit unfair discrimination among customers, brokers, or dealers and thus is consistent with the Act because the Exchange will be offering the product on terms that a vendor could offer a competing product. Specifically, the proposed data feed merely represents an aggregation and consolidation of data contained in existing, previously filed individual market data products of the Cboe Options Exchanges. As such, a vendor could similarly obtain the underlying data feeds and perform a similar aggregation and consolidation function to create the same data product as being proposed with the same latency and cost as the Exchange.

The Exchange has taken into consideration its affiliated relationship with Cboe Options, EDGX Options and C2 Options in its design of Cthe Cboe One Options Feed to assure that distributors and/or vendors would be able to offer a similar product on the same terms as the Exchange, both from the perspective of latency and cost. As discussed above, the Exchange proposes to offer the Cboe One Options Feed voluntarily in response to demand from market participants such as retail brokerage firms that are interested in receiving and distributing the top-of-book quotation and last sale information from the Cboe Options Exchanges as part of a single data feed. Specifically, Cboe One Options Feed can be used by industry professionals and retail investors looking for a cost effective, easy-to-administer, high quality market data product with the characteristics of the Cboe One Options Feed. The Cboe One Options Feed would help protect a free and open market by providing market participants additional choices in receiving this type of market data, thus promoting competition and innovation.

With respect to latency, the path for distribution by the Exchange of Cboe One Options Feed would not be faster than the path for distribution a vendor that independently created a Cboe One Options Feed-like product could distribute its own product. As such, the proposed Cboe One Options data feed is a data product that a vendor could create and sell without being in a disadvantaged position relative to the Exchange. In recognition that the Exchange is the source of its own market data and is affiliated with Cboe Options, EDGX Options and C2 Options, the Exchange represents that the source of the market data it would use to create the proposed Cboe One Options Feed is available to other vendors. Specifically, the Exchange would use the following data feeds to create the proposed Cboe One Options Feed, each of which is available to other vendors: the BZX Options Top, Cboe Options Top Data, the C2 Options Top Data, and the EDGX Options Top Feeds. The Cboe Options Exchanges will continue to make available these individual underlying feeds, and thus, the source of the market data it would use to create the proposed Cboe One Options feed is the same as the source available to other vendors.

[17] *See* Cboe Global Markets U.S. Options Market Month-to-Date Volume Summary (January 9, 2023), available at *https://markets.cboe.com/us/options/market_statistics/*.

[18] The Exchange notes that it and its Affiliates, make available their respective top-of-book data and last sale data that is included in each exchange's top-of-book data feed no earlier than the time at which the Exchange sends that data to OPRA.

[19] *See* BZX Rule 11.22(j), BYX Rule 11.22(i), EDGA Rule 13.8(b) and EDGX Rule 13.8(b).

[20] *Id.*

In order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process any vendor would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed. Therefore, a vendor that is located in the same facilities as the Exchange could obtain the underlying data feeds from the Cboe Options Exchanges on the same latency basis as the system that would be performing the aggregation and consolidation of the proposed Cboe One Options Feed and provide the same type of product to its customers with the same latency they could achieve by purchasing the Cboe One Options Feed from the Exchange. As such, the Exchange would not have any unfair advantage over vendors with respect to obtaining data from the individual Cboe Options Exchanges. In fact, the technology supporting the Cboe One Options Feed would similarly need to obtain the Exchange's data feed as well and even this connection would be on a level playing field with a vendor located at the same facility as the Exchange. The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to customers, whether those customers are also located in the same data center or not.

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed, which would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed to offer and resell. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a vendor (or distributor) to obtain the underlying Cboe Options Exchanges' top-of-book data feeds. The pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange intends to propose for the Cboe One Options Feed would be equal to the combined fees for subscribing to each individual data feed.[21] The Exchange also intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. The intended proposed fees would therefore enable a vendor to create a product based on the individual data feeds and charge its clients a fee that it believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Because the Exchange and its affiliates, along with other exchanges already offer the similar underlying data products, the Exchange's proposed Cboe One Options Feed will enhance competition. This proposed new data feed provides investors with new options for receiving market data, which was a primary goal of the market data amendments adopted by Regulation NMS.[22] As the Cboe Options Exchanges are consistently one of the top exchange operators by market share for U.S. options trading the data included within the Cboe One Options Feed will provide investors a new option for obtaining a broad market view, consistent with the primary goal of the market data amendments adopted by Regulation NMS.

The Exchange believes the Cboe One Options Feed will further enhance competition by providing distributors and vendors with a data feed that allows them to more quickly and efficiently integrate into their existing products. For example, today, vendors may subscribe to various market data products offered by single exchanges and resell that data, either separately or in the aggregate, to their customers as part of their own market data offerings. Distributors and vendors may incur administrative costs when consolidating and augmenting the data to meet their customer's need. Consequently, many distributors and/or vendors will simply choose to not take the data from each of the Cboe Options Exchanges because of the effort and cost required to aggregate data from separate feeds into their existing products. Those same distributors and/or vendors may therefore be interested in the Cboe One Options Feed as they may easily incorporate aggregated or summarized Cboe Options Exchanges' data into their own products without themselves incurring the costs of the repackaging and aggregating the data it would receive by purchasing each market data product offered by the individual Cboe Options Exchanges separately. The Exchange therefore believes that by providing market data that encompasses combined data from affiliated exchanges, the Exchange enables vendors with the ability to compete in the provision of similar content with other vendors, where they may not have done so previously if they were required to purchase the top-of-book feeds from each individual Cboe options exchanges separately.

Although the Exchange considers the acceptance of the Cboe One Options Feed by distributors and vendors as important to the success of the product, depending on their needs, such distributors and vendors may choose not to subscribe to the Cboe One Options Feed and may rather receive the Cboe Options Exchanges' individual market data products and incorporate them into their specific market data

[21] For example, the combined external distribution fee for the individual data feeds of the Cboe Options Exchanges is $10,000 per month (*i.e.,* the monthly external distribution fee is $5,000 per month for the Cboe Options Top, $2,500 per month for C2 Options Top $2,000 per month for BZX Options Top, and $500 for EDGX Options Top). The monthly Professional User fee for the individual data feeds of the Cboe Options Exchanges is $30.50 per Professional User (*i.e.,* the monthly Professional User fee is $15.50 per Professional User for the Cboe Options Top, $5 per Professional User for C2 Options Top; $5 per Professional User for BZX Options Top, and $5 per Professional User for EDGX Options Top). The combined monthly Non-Professional User fee for the individual data feeds of the Cboe Options Exchanges is $0.60 per Non-Professional User (*i.e.,* the monthly Non-Professional User fee is $0.30 per Non-Professional User for Cboe Options Top, $0.10 per Non-Professional User for C2 Options Top, $0.10 per Non-Professional User for BZX Options Top, and $0.10 per Non-Professional User for EDGX Options Top).

[22] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, at 37503 (June 29, 2005) (Regulation NMS Adopting Release).

products. The Cboe One Options Feed simply provides another option for distributors and vendors to choose from when selecting a product that meets their market data needs.

Exchange Not the Exclusive Distributor of Cboe One Options Feed

Although the Cboe Options Exchanges are the exclusive distributors of the individual data feeds from which certain data elements would be taken to create the Cboe One Options Feed, the Exchange would not be the exclusive distributor of the aggregated and consolidated information that would compose the proposed Cboe One Options Feed. As discussed above, distributors and/or vendors would be able, if they chose, to create a data feed with the same information as the Cboe One Options Feed and distribute it to their clients on a level-playing field with respect to latency and cost as compared to the Exchange's proposed Cboe One Options Feed. The pricing the Exchange would charge for the Cboe One Options Feed would not be lower than the cost to a distributor or vendor to obtain the underlying data feeds. In addition, the pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a distributor and/or vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange.

Latency

The Cboe One Options Feed is also not intended to compete with similar products offered by distributors. Rather, it is intended to assist them in incorporating aggregated and summarized data from the Cboe Options Exchanges into their own market data products that are provided to their customers. Therefore, distributors will receive the data, who will, in turn, make available Cboe One Options Feed to their end users, either separately or as incorporated into the various market data products they provide. As stated above distributors may prefer a product like the Cboe One Options Feed so that they may easily incorporate aggregated or summarized Cboe Options Exchange data into their own products without themselves incurring the administrative costs of repackaging and aggregating the data it would receive by subscribing to each market data product offered by the individual Cboe Options Exchanges.

Notwithstanding the above, the Exchange believes that vendors may create a product similar to Cboe One Options Feed based on the market data products offered by the individual Cboe Options Exchanges with no greater latency than the Exchange. As discussed above, in order to create the Cboe One Options Feed, the Exchange will receive the individual data feeds from each Cboe Options Exchange and, in turn, aggregate and summarize that data to create the Cboe One Options Feed. This is the same process a vendor would undergo should it create a market data product similar to the Cboe One Options Feed to distribute to its customers. In addition, the servers of most vendors could be located in the same facilities as the Exchange, and, therefore, should receive the individual data feed from each Cboe Options Exchange at the same time the Exchange would for it to create the Cboe One Options Feed.

The Exchange has designed the Cboe One Options data feed so that it would not have a competitive advantage over a vendor with respect to the speed of access to those underlying data feeds. Likewise, the Cboe One Options data feed would not have a speed advantage vis-à-vis vendors located in the same data center as the Exchange with respect to access to their customers, whether those end users are also located in the same data center or not. Therefore, the Exchange believes that it will not incur any potential latency advantage that will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Cost

With regard to cost, the Exchange will file a separate rule filing with the Commission to establish fees for Cboe One Options Feed that would be designed to ensure that vendors could compete with the Exchange by creating a similar product as the Cboe One Options Feed. The pricing the Exchange would charge clients for the Cboe One Options Feed compared to the cost of the individual data feeds from the Cboe Options Exchanges would enable a vendor to receive the underlying data feeds and offer a similar product on a competitive basis and with no greater latency than the Exchange. The Distribution and User (Professional and Non-Professional) fees that the Exchange proposes for the Cboe One Options Feed will be equal to the combined fees for subscribing to each individual data feed. Moreover, as discussed, the Exchange intends to propose a separate ''Data Consolidation Fee'', which would reflect the value of the aggregation and consolidation function the Exchange performs in creating the Cboe One Options Feed. Therefore, vendors would be enabled to create a competing product based on the individual data feeds and charge their clients a fee that they believes reflects the value of the aggregation and consolidation function that is competitive with Cboe One Options Feed pricing. For these reasons, the Exchange believes that vendors could readily offer a product similar to the Cboe One Options Feed on a competitive basis at a similar cost.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

A. significantly affect the protection of investors or the public interest;

B. impose any significant burden on competition; and

C. become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[23] and Rule 19b–4(f)(6)[24] 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-CboeBZX–2023–004 on the subject line.

[23] 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(f)(6).

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR-CboeBZX–2023–004. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2023–004 and should be submitted on or before March 10, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–03331 Filed 2–16–23; 8:45 am]

BILLING CODE 8011–01–P

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96904; File No. SR–NYSEARCA–2023–12]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 6.4–O

February 13, 2023.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 6, 2023, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.4–O (Series of Options Open for Trading), Commentary .07 regarding the Short Term Option Series Program. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 6.4–O (Series of Options Open for Trading), Commentary .07 (hereinafter ''Commentary .07''). Specifically, the Exchange proposes to amend the Short Term Option Series Program to: (1) limit the number of Short Term Option Expiration Dates for options on SPDR S&P 500 ETF Trust (SPY), the INVESCO QQQ TrustSM, Series 1 (QQQ), and iShares Russell 2000 ETF (IWM) from five to two expirations for Monday and Wednesday expirations; and (2) expand the Short Term Option Series program to permit the listing and trading of options series with Tuesday and Thursday expirations for options on SPY and QQQ listed pursuant to the Short Term Option Series Program, subject to the same proposed limitation of two expirations. This is a competitive filing and is substantially identical to a rule recently approved on Nasdaq ISE, LLC (''Nasdaq ISE'').[4]

Curtail Short Term Option Expiration Dates

Currently, per Commentary .07(a), after an option class has been approved for listing and trading on the Exchange, the Exchange may open for trading on any Thursday or Friday that is a business day (''Short Term Option Opening Date'') series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays on which monthly options series or Quarterly Options Series expire (hereinafter referred to as ''Short Term Option Expiration Dates'').[5] In addition, the Exchange may have no more than a total of five Short Term Option Expiration Dates not including any Monday or Wednesday SPY, QQQ, and IWM Expirations. Further, if the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date will be the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities and Exchange Act Release No. 96281 (November 9, 2022), 87 FR 68769 (November 16, 2022) (SR–ISE–2022–18) (''ISE Approval Order'').

[5] The Exchange notes that Rule 6.1–O(41) contains a definition for Short Term Options Series that is no longer applicable and is slated for deletion (together with the entire Rule 6.1–O) in a subsequent rule filing. *See* Securities Exchange Act Release No. 94072 (January 26, 2022), 87 FR 5592 (February 1, 2022) (Notice of filing Notice of Filing of Amendment No. 4 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 4) (SR–NYSEArca–2021–47) (proving, in relevant part, that the definition of ''Short Term Options Series'' was duplicative of Commentary .07 to Rule 6.4–O and therefore would be deleted in a subsequent filing). *Id.,* 87 FR at 5594 and 5653, n. 18.

first business day immediately prior to that Friday.

Today, per Commentary .07(g), with respect to Wednesday SPY, QQQ, and IWM Expirations, the Exchange may open for trading on any Tuesday or Wednesday that is a business day series of options on SPY, QQQ, and IWM to expire on any Wednesday of the month that is a business day and is not a Wednesday in which Quarterly Options Series expire (''Wednesday SPY Expirations,'' ''Wednesday QQQ Expirations,'' and ''Wednesday IWM Expirations''). In addition, with respect to Monday SPY, QQQ, and IWM Expirations, the Exchange may open for trading on any Friday or Monday that is a business day series of options on the SPY, QQQ, or IWM to expire on any Monday of the month that is a business day and is not a Monday in which Quarterly Options Series expire (''Monday SPY Expirations,'' ''Monday QQQ Expirations,'' and ''Monday IWM Expirations''), provided that Monday SPY Expirations, Monday QQQ Expirations, and Monday IWM Expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration. In addition, the Exchange may list up to five consecutive Wednesday SPY Expirations, Wednesday QQQ Expirations, and Wednesday IWM Expirations and five consecutive Monday SPY Expirations, Monday QQQ Expirations, and Monday IWM Expirations at one time; the Exchange may have no more than a total of five each of Wednesday SPY Expirations, Wednesday QQQ Expirations, and Wednesday IWM Expirations and a total of five each of Monday SPY Expirations, Monday QQQ Expirations, and Monday IWM Expirations. Monday and Wednesday SPY Expirations, Monday and Wednesday QQQ Expirations, and Monday and Wednesday IWM Expirations are subject to Commentary .07(g).

Proposal

At this time, the Exchange proposes to curtail the number of Short Term Option Expiration Dates from five to two [6] for SPY, QQQ and IWM for Monday and Wednesday Expirations, as well as the proposed Tuesday and Thursday Expirations in SPY and QQQ, which expirations are set forth in Commentary .07(g). To effectuate this change, the Exchange proposes new paragraph (g) (which incorporates current paragraph (g)) as set forth below.[7]

Proposed Commentary .07(g), entitled ''Short Term Option Daily Expirations'', would limit to two the number of option series in symbols (set forth in ''Table 1'') that expire at the close of business beyond the current week for each of the following two Mondays, Tuesdays, Wednesdays, and Thursdays (collectively, the ''Short Term Expiration Dates'') as set forth below:

* * * * *

TABLE 1

Symbol	Number of expirations			
	Monday	Tuesday	Wednesday	Thursday
SPY	2	2	2	2
IWM	2	0	2	0
QQQ	2	2	2	2

* * * * *

As shown above, Table 1 sets forth the number of permissible expirations for each symbol as well as permissible expiration days. Specifically, the Exchange proposes to include Monday and Wednesday expirations for SPY, QQQ, and IWM and Tuesday and Thursday expirations for SPY and QQQ and list ''2'' as the number of permissible expirations for these symbols. The Exchange's proposal to permit Tuesday and Thursday expirations for options on SPY and QQQ listed pursuant to the Short Term Option Series Program is explained below in more detail. In the event Short Term Option Daily Expirations expire on the same day in the same class as a monthly options series or a Quarterly Options Series, the Exchange would skip that week's listing and instead list the following week; the two weeks of Short Term Option Expiration Dates would therefore not be consecutive. To this end, specifically, the Exchange proposes to state within Commentary .07(g):

In addition to the above, the Exchange may open for trading series of options on the symbols provided in Table 1 below that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays beyond the current week, respectively, that are business days and are not business days on which monthly options series or Quarterly Options Series expire (''Short Term Option Daily Expirations''). The Exchange may have no more than a total of two Short Term Option Daily Expirations beyond the current week for each of Monday, Tuesday, Wednesday, and Thursday expirations at one time. Short Term Option Daily Expirations would be subject to this paragraph (g).

In connection with the foregoing change, the Exchange proposes to modify Commentary .07(a) to distinguish the expirations set forth in Table 1 from other permissible expirations. Specifically, SPY, QQQ, and IWM Friday expirations and other option symbols expiring on a Friday (that are not noted in Table 1) will continue to have a total of five Short Term Option Expiration Dates, provided those Friday expirations are not Fridays on which monthly options series or Quarterly Options Series expire and will be referred to as ''Friday Short Term Option Expiration Dates.'' [8] In addition, these expirations would be referred to as ''Short Term Option Weekly Expirations'' to distinguish them from the proposed expirations that would be subject to Table 1 (*i.e.,* Short Term Option Daily Expirations).[9]

Finally, proposed Commentary .07(g) would provide that Monday Short Term Option Expiration Dates, Tuesday Short Term Option Expiration Dates, Wednesday Short Term Option Expiration Dates, and Thursday Short Term Option Expiration Dates, together with Friday Short Term Option Expiration Dates, would collectively refer to ''Short Term Option Expiration Dates.'' [10]

[6] The Exchange proposes to list the two front weeks for Short Term Options Daily Expirations.

[7] *See* proposed Rule 6.4–O, Commentary .07(g).

[8] *See* proposed Commentary .07(a).

[9] *Id.*

[10] Defining the term ''Short Term Option Expiration Dates'' will make clear that this term includes expiration dates for each day Short Term Options are listed.

Tuesday and Thursday Expirations

At this time, the Exchange proposes to expand the Short Term Option Series Program to permit the listing and trading of no more than a total of two consecutive Tuesday and Thursday expirations (*i.e.,* ''Tuesday Short Term Option Daily Expirations'' and ''Thursday Short Term Option Daily Expirations'') beyond the current week each for SPY and QQQ. Tuesday and Thursday Short Term Option Daily Expirations would be subject to proposed Commentary .07(g).

Currently, series listed pursuant to the Short Term Option Series program are series in an option class that is approved for listing and trading on the Exchange in which the series opened for trading on any Monday, Tuesday, Wednesday, Thursday, or Friday (as applicable) that is a business day and that expires on the Monday, Wednesday, or Friday of the following business week that is a business day, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday, or Friday is not a business day, the series may be opened (or will expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday, or Friday. For a series listed for Monday expiration, if a Monday is not a business day, the series will expire on the first business day immediately following that Monday.[11]

Current (and proposed) Commentary .07(g), which sets forth the requirements for SPY and QQQ options that are listed pursuant to the Short Term Option Series Program as Short Term Option Daily Expirations, will be modified to accommodate the listing of options series that expire on Tuesdays and Thursdays. Similar to Monday and Wednesday SPY, QQQ, and IWM Short Term Option Daily Expirations, per current (and proposed) Commentary .07(g), the Exchange proposes that it may open for trading on any Monday or Tuesday that is a business day series of options in symbols set forth in Table 1 that expire at the close of business on each of the next two Tuesdays beyond the current week that are business days and are not business days in which monthly options series or Quarterly Options Series expire (''Tuesday Short Term Option Expiration Date'').[12]

Likewise, per proposed Commentary .07(g), the Exchange may open for trading on any Wednesday or Thursday that is a business day series of options on symbols set forth in Table 1 that expire at the close of business on each of the next two Thursdays that are business days and are not business days in which monthly options series or Quarterly Options Series expire (''Thursday Short Term Option Expiration Date'').

In the event that options on SPY and QQQ expire on a Tuesday or Thursday and that Tuesday or Thursday is the same day that a monthly option series or Quarterly Options Series expires, the Exchange would skip that week's listing and instead list the following week; the two weeks would therefore not be consecutive. Today, Monday and Wednesday Expirations in SPY, QQQ, and IWM skip the weekly listing in the event the weekly listing expires on the same day in the same class as a Quarterly Options Series. Currently, there is no rule text provision that states that Monday and Wednesday Expirations in SPY, QQQ, and IWM skip the weekly listing in the event the weekly listing expires on the same day in the same class as a monthly option series. Practically speaking, Monday and Wednesday Expirations in SPY, QQQ, and IWM would not expire on the same day as a monthly expiration.

The interval between strike prices for the proposed Tuesday and Thursday SPY and QQQ Short Term Option Daily Expirations will be the same as those for the current Short Term Option Series for Monday, Wednesday, and Friday expirations applicable to the Short Term Option Series Program.[13] Specifically, the Tuesday and Thursday SPY and QQQ Short Term Option Daily Expirations will have a $0.50 strike interval minimum.[14] As is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Tuesday and Thursday SPY and QQQ Short Term Option Daily Expiration series will be P.M.-settled.

Pursuant to proposed Commentary .07(g), with respect to the Short Term Option Series Program, a Tuesday or Thursday expiration series will expire on the first business day immediately prior to that Tuesday or Thursday, *e.g.,* Monday or Wednesday of that week, respectively, if the Tuesday or Thursday is not a business day.

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.[15] The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.[16] This thirty (30) series restriction would apply to Tuesday and Thursday SPY and QQQ Short Term Option Daily Expiration series as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list SPY and QQQ options expiring on Tuesdays and Thursdays with a limit of two Tuesday Short Term Daily Expirations and two Thursday Short Term Daily Expirations beyond the current week.

In addition, today, with the exception of Monday and Wednesday SPY Expirations, Monday and Wednesday QQQ Expirations, and Monday and Wednesday IWM Expirations, no Short Term Option Series may expire in the same week in which monthly option series on the same class expire. With this proposal, Tuesday and Thursday SPY Expirations and Tuesday and Thursday QQQ Expirations would be treated similarly to existing Monday and Wednesday SPY, QQQ, and IWM Expirations. Specifically, with respect to monthly option series, Short Term Option Daily Expirations will be permitted to expire in the same week in which monthly option series in the same class expire.[17] Not listing Short Term Option Daily Expirations for one week every month because there was a monthly on that same class on the Friday of that week would create investor confusion.

Further, as with Monday and Wednesday SPY, QQQ, and IWM Expirations, the Exchange would not permit Tuesday and Thursday Short Term Option Daily Expirations to expire on a business day in which monthly options series or Quarterly Options Series expire.[18] Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days on which monthly options series or Quarterly Options

[11] *See* Commentary .07(g).

[12] *See* proposed Commentary .07(g).

[13] *See* Commentary .07(e).

[14] *See id.*

[15] *See* Commentary .07(a).

[16] *See id.*

[17] *See* proposed Commentary .07(g).

[18] While the Exchange proposes to add rule text within Commentary .07(g) with respect to Monday Expirations, Tuesday Expirations, and Wednesday Expirations stating that those expirations would not expire on business days that are business days on which monthly options series expire, practically speaking this would not occur.

Series expire. The Exchange believes that it is reasonable to not permit two expirations on the same day in which a monthly options series or a Quarterly Options Series would expire.

The Exchange does not believe that any market disruptions will be encountered with the introduction of P.M.-settled Tuesday and Thursday Short Term Option Daily Expirations. The Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Tuesday and Thursday Short Term Option Daily Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday and Wednesday for SPY, QQQ and IWM and has not experienced any market disruptions nor issues with capacity. Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday and Wednesday for SPY, QQQ and IWM.

Impact of Proposal

The Exchange notes that listings in the Short Term Option Series Program comprise a significant part of the standard listing in options markets. The below tables sets forth the percentage of weekly listings as compared to monthly, quarterly, and Long-Term Option Series in 2020 and 2022 in the options industry.[19] The weekly strikes decreased from 24% to19% in these two years. The Exchange notes that during this timeframe, all options exchanges mitigated weekly strike intervals.

NUMBER OF STRIKES—2020

Expiration	Percent of total
Monthly	59
Weekly	24
LEAP	16
Quarterly	1

NUMBER OF STRIKES—2022

Expiration	Percent of total
Monthly	64
Weekly	19
LEAP	17
Quarterly	0

By limiting the number of Short Term Option Daily Expirations for SPY, QQQ, and IWM to two expirations for Monday and Wednesday expirations, and expanding the Short Term Option Series Program to permit Tuesday and Thursday expirations for SPY and QQQ, the Exchange anticipates that it would overall reduce the number of weekly expiration dates. With respect to SPY, the reduction from five to two expirations will reduce 11.80% of strikes on SPY with Monday and Wednesday expirations. With respect to QQQ, the reduction from five to two expirations will reduce 12.86% of strikes on QQQ with Monday and Wednesday expirations. With respect to IWM, the reduction from five to two expirations will reduce 11.86% of strikes on IWM with Monday and Wednesday expirations. Additionally, expanding the Short Term Option Series Program to permit the listing of Tuesday and Thursday expirations in SPY and QQQ will account for the addition of 7.86% of strikes in SPY and the addition of 8.57% of strikes in QQQ. Therefore, the total net reduction would be 3.94% for SPY and 4.29% for QQQ.[20] The overall reduction offered by this proposal reduces the number of Short Term Option Expirations to be listed on the Exchange and should encourage Market-Makers to continue to deploy capital more efficiently and improve displayed market quality.[21] Also, the Exchange's proposal curtails the number of expirations in SPY, QQQ, and IWM without reducing the classes of options available for trading on the Exchange. The Exchange believes that despite the proposed curtailment of expirations, Trading Permit Holders will continue to be able to expand hedging tools because all days of the week would be available to permit Trading Permit Holders to tailor their investment and hedging needs more effectively in SPY and QQQ.

TOTAL VOLUME—2022

[Through August 18]

Expiration	Percent of total series
Monthly	39
Weekly	48
LEAP	12
Quarterly	1

Weeklies comprise 48% of the total volume of options listings.[22] The Exchange believes that inner weeklies represent high volume as compared to outer weeklies and would be more attractive to market participants. Similar to SPY, QQQ and IWM Monday and Wednesday Expirations, the introduction of SPY and QQQ Tuesday and Thursday expirations will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that SPY and QQQ Tuesday and Thursday expirations will allow market participants to purchase SPY and QQQ options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

Implementation

The Exchange will announce the implementation of this proposal via Trader Update to be published no later than 60 days following the effectiveness of this this rule. Notwithstanding this implementation, Monday and Wednesday Expirations in SPY, QQQ, and IWM that were listed prior to the date of implementation will continue to be listed on the Exchange until those options expire pursuant to current Commentary .07 regarding Short Term Option Series.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[23] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[24] 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)[25] requirement that

[19] Nasdaq ISE sourced this information from The Options Clearing Corporation (''OCC''). The information includes time averaged data for all 16 options markets up to August 18, 2022. *See* ISE Approval Order, *supra* note 4.

[20] Nasdaq ISE sourced this information, which are estimates, from LiveVol®. The information includes data for all 16 options markets as of August 18, 2022. *See id.*

[21] Market-Makers (including Lead Market-Makers) are required to quote a specified time in their assigned options series. *See* Rules 6.37–O and 6.37AP–O.

[22] This table sets forth industry volume. Weeklies comprise 48% of volume while only being 19% of the strikes. Nasdaq ISE sourced this information from OCC. The information includes data for all 16 options markets as of August 18, 2022.) *See* ISE Approval Order, *supra* note 4.

[23] 15 U.S.C. 78f(b).

[24] 15 U.S.C. 78f(b)(5).

[25] *Id.*

the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The proposal is consistent with the Act as the overall reduction offered by this proposal reduces the number of Short Term Option Expirations to be listed on the Exchange. This reduction would remove impediments to and perfect the mechanism of a free and open market by encouraging Market-Makers to continue to deploy capital more efficiently and improve displayed market quality.[26] Also, the Exchange's proposal curtails the number of Monday, Tuesday, Wednesday, and Thursday expirations in SPY, QQQ, and IWM without reducing the classes of options available for trading on the Exchange. The Exchange believes that despite the proposed curtailment of expirations, Trading Permit Holders will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in SPY, QQQ, and IWM.

Similar to SPY, QQQ, and IWM Monday and Wednesday Expirations (proposed to be SPY, QQQ and IWM Monday and Wednesday Short Term Daily Expirations), the introduction of SPY and QQQ Tuesday and Thursday Short Term Daily Expirations is consistent with the Act as it will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that SPY and QQQ Tuesday and Thursday expirations (proposed to be SPY and QQQ Tuesday and Thursday Short Term Daily Expirations) will allow market participants to purchase SPY and QQQ options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively. Further, the proposal to permit Tuesday and Thursday Short Term Daily Expirations for options on SPY and QQQ listed pursuant to the Short Term Option Series Program, subject to the proposed limitation of two expirations, would protect investors and the public interest by providing the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in SPY and QQQ options, thus allowing them to better manage their risk exposure.

In particular, the Exchange believes the Short Term Option Series Program has been successful to date and that Tuesday and Thursday SPY and QQQ Short Term Daily Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging. Similarly, the Exchange believes Tuesday and Thursday SPY and QQQ Short Term Daily Expirations should create greater trading and hedging opportunities and flexibility and will provide customers with the ability to tailor their investment objectives more effectively. The Exchange currently lists Monday and Wednesday SPY, QQQ, and IWM Expirations (proposed to be SPY, QQQ, and IWM Monday and Wednesday ''Short Term Daily Expirations'').[27]

Today, with the exception of Monday and Wednesday SPY Expirations, Monday and Wednesday QQQ Expirations, and Monday and Wednesday IWM Expirations, no Short Term Option Series may expire in the same week in which monthly option series on the same class expire. With this proposal, Tuesday and Thursday SPY Expirations and Tuesday and Thursday QQQ Expirations would be treated similarly to existing Monday and Wednesday SPY, QQQ, and IWM Expirations. The Exchange believes that permitting Short Term Option Daily Expirations to expire in the same week that standard monthly options expire on Fridays is consistent with Act. Not listing Short Term Option Daily Expirations for one week every month because there was a monthly on that same class on the Friday of that week would create investor confusion.

Further, as with Monday and Wednesday SPY, QQQ, and IWM Expirations, the Exchange would not permit Tuesday and Thursday Short Term Option Daily Expirations to expire on a business day in which monthly options series or Quarterly Options Series expire. Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which monthly options series or Quarterly Options Series expire. The Exchange believes that it is consistent with the Act to not permit two expirations on the same day in which a monthly options series or a Quarterly Options Series would expire similar to Monday and Wednesday SPY, QQQ, and IWM Expirations.

There are no material differences in the treatment of Wednesday SPY and QQQ expirations for Short Term Option Series as compared to the proposed Tuesday and Thursday SPY and QQQ Short Term Daily Expirations. Given the similarities between Wednesday SPY, QQQ and IWM Expirations and the proposed Tuesday and Thursday SPY and QQQ Short Term Daily Expirations, the Exchange believes that applying the provisions in Commentary .07 (g) that currently apply to Wednesday SPY, QQQ and IWM Expirations to Tuesday and Thursday SPY and QQQ Short Term Daily Expirations (per proposed Commentary .07(g)) is justified.

The Exchange further represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed Tuesday and Thursday SPY and QQQ Short Term Daily Expirations, in the same way that it monitors trading in the current Short Term Option Series and trading in Monday and Wednesday SPY, QQQ, and IWM Expirations. The Exchange also represents that it has the necessary systems capacity to support the new options series. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of Tuesday and Thursday SPY and QQQ Short Term Daily Expirations.

Finally, the Exchange notes the proposed rule change is substantively the same as a rule change proposed by Nasdaq ISE, which the Commission recently approved.[28]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposal will provide an overall reduction in the number of Short Term Option Expirations to be listed on the Exchange. The Exchange believes this reduction will not impose an undue burden on competition, rather, it should encourage Market- Makers to continue to deploy capital more efficiently and improve displayed market quality.[29] Also, the Exchange's proposal curtails the number of weekly expirations in SPY, QQQ, and IWM without reducing the classes of options available for trading on the Exchange. The Exchange

[26] Market Makers (including Lead Market Makers) are required to quote a specified time in their assigned options series. *See e.g.,* Rules 6.37–O and 6.37AP–O.

[27] *See* Commentary .07(g) and proposed Commentary .07(g).

[28] *See* ISE Approval Order, *supra* note 4.

[29] Market Makers (including Lead Market Makers) are required to quote a specified time in their assigned options series. *See e.g.,* Rules 6.37–O and 6.37AP–O.

believes that despite the proposed curtailment of weekly expirations, Trading Permit Holders will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in SPY, QQQ, and IWM.

Similar to SPY, QQQ and IWM Monday and Wednesday Expirations, the Exchange believes the introduction of SPY and QQQ Tuesday and Thursday Short Term Daily Expirations will not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants and continue the reduction of the premium cost of buying protection. The Exchange believes that SPY and QQQ Tuesday and Thursday Short Term Daily Expirations will allow market participants to purchase SPY and QQQ options based on their timing as needed and allow them to tailor their investment and hedging needs more effectively. The Exchange does not believe the proposal will impose any burden on intermarket competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Short Term Option Series with Tuesday and Thursday Short Term Daily Expirations. The Exchange notes that having Tuesday and Thursday SPY and QQQ expirations is not a novel proposal, as Wednesday SPY, QQQ and IWM Expirations are currently listed on the Exchange.[30] Additionally, as noted above, the Commission recently approved a substantively identical proposal of another exchange.[31] Further, the Exchange does not believe the proposal will impose any burden on intramarket competition, as all market participants will be treated in the same manner under this proposal.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[32] and Rule 19b–4(f)(6) thereunder.[33] Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[34] and subparagraph (f)(6) of Rule 19b–4 thereunder.[35]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[36] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[37] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Commission notes that it recently approved Nasdaq ISE's substantially similar proposal.[38] The Exchange has stated that waiver of the 30-day operative delay will allow the Exchange to implement the proposal at the same time as its competitor exchanges, thus creating competition among Short Term Option Series throughout the industry. For these reasons, the Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[39]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2023–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2023–12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEARCA–2023–12 and

[30] *See* Commentary .07(g).

[31] *See* ISE Approval Order, *supra* note 4.

[32] 15 U.S.C. 78s(b)(3)(A)(iii).

[33] 17 CFR 240.19b–4(f)(6).

[34] 15 U.S.C. 78s(b)(3)(A)(iii).

[35] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[36] 17 CFR 240.19b–4(f)(6).

[37] 17 CFR 240.19b–4(f)(6)(iii).

[38] *See* Securities Exchange Act Release No. 96281 (November 9, 2022), 87 FR 68769 (November 11, 2022) (SR–ISE–2022–18).

[39] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

should be submitted on or before March 10, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–03334 Filed 2–16–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–470, OMB Control No. 3235–0529]

Submission for OMB Review; Comment Request; Extension: Rule 17f–7

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 350l–3521) (''Paperwork Reduction Act''), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collections of information discussed below.

Rule 17f–7 (17 CFR 270.17f–7) permits a fund under certain conditions to maintain its foreign assets with an eligible securities depository, which has to meet minimum standards for a depository. The fund or its investment adviser generally determines whether the depository complies with those requirements based on information provided by the fund's primary custodian (a bank that acts as global custodian). The depository custody arrangement also must meet certain conditions. The fund or its adviser must receive from the primary custodian (or its agent) an initial risk analysis of the depository arrangements, and the fund's contract with its primary custodian must state that the custodian will monitor risks and promptly notify the fund or its adviser of material changes in risks. The primary custodian and other custodians also are required to agree to exercise at least reasonable care, prudence, and diligence.

The collection of information requirements in rule 17f–7 are intended to provide workable standards that protect funds from the risks of using foreign securities depositories while assigning appropriate responsibilities to the fund's primary custodian and investment adviser based on their capabilities. The requirement that the foreign securities depository meet specified minimum standards is intended to ensure that the depository is subject to basic safeguards deemed appropriate for all depositories. The requirement that the fund or its adviser must receive from the primary custodian (or its agent) an initial risk analysis of the depository arrangements, and that the fund's contract with its primary custodian must state that the custodian will monitor risks and promptly notify the fund or its adviser of material changes in risks, is intended to provide essential information about custody risks to the fund's investment adviser as necessary for it to approve the continued use of the depository. The requirement that the primary custodian agree to exercise reasonable care is intended to provide assurances that its services and the information it provides will meet an appropriate standard of care.

The staff estimates that each of approximately 1,445 investment advisers[1] will make an average of 8 responses annually under the rule to address depository compliance with minimum requirements, any indemnification or insurance arrangements, and reviews of risk analyses or notifications.[2] The staff estimates each response will take 6 hours, requiring a total of approximately 48 hours for each adviser.[3] Thus, the total annual burden associated with these requirements of the rule is approximately 69,360 hours.[4]

In addition, based on public filings made with the Commission, we calculate that there are approximately 38 global custodians that are engaged to perform global custodial services to funds and thus subject to the provisions of rule 17f–7.[5] This estimate is based on information that is publicly available on Form N–CEN filings.[6] The staff further estimates that during each year, each of approximately 38 global custodians will make an average of 4 responses to analyze custody risks and provide notice of any material changes to custody risk under the rule.[7] The staff estimates that each response will take 260 hours, requiring approximately 1,040 hours annually per global custodian.[8] Thus the total annual burden associated with this aspect of the rule is approximately 39,520 hours.[9] The staff estimates that the total annual hour burden associated with all collection of information requirements of the rule is therefore 108,880 hours.[10]

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. Compliance with the collection of information requirements of the rule is necessary to obtain the benefit of relying on the rule's permission for funds to maintain their assets in foreign custodians. The information provided under rule 17f–7 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

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 within 30 days of publication of this notice by March 20, 2023 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: February 13, 2023.

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–03337 Filed 2–16–23; 8:45 am]

BILLING CODE 8011–01–P

[40] 17 CFR 200.30–3(a)(12), (59).

[1] From a review of the Form ADV filings and Form N–CEN filings, respectively, as of December 31, 2021 and for filings received through August 31, 2022, Commission staff estimated that 1,445 registered investment advisers managed or sponsored open-end registered funds (including exchange-traded funds) and closed-end registered funds.

[2] 1,445 advisers × 8 responses = 11,560 responses.

[3] 8 responses per adviser × 6 hours per response = 48 hours per adviser.

[4] 1,445 advisers × 48 hours per adviser = 69,360 hours.

[5] We analyzed Form N–CEN filings for registrants as of December 31, 2021 and based on these filings, we estimated the number of global custodians that have been retained by funds and are subject to the provisions of rule 17f–7 to be approximately 38.

[6] See Item C.12.a.vii.7 of Form N–CEN.

[7] 38 custodians × 4 responses = 152 responses.

[8] 260 hours per response × 4 responses per global custodian = 1,040 hours per global custodian.

[9] 38 global custodians × 1,040 hours per global custodian = 39,520 hours.

[10] 69,360 hours + 39,520 hours = 108,880 hours.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–96903; File No. SR–NASDAQ–2023–001]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Market Maker Requirements in Equity 2 Section 5 and Equity 2 Section 11

February 13, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 31, 2023, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Equity 2, 5 and Section 11 related to certain Market Maker requirements, as described further below.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/bx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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

On December 2, 2022, Nasdaq proposed changes to amend certain Nasdaq Market Maker requirements. These changes were published in the **Federal Register** on December 21, 2022 (''Initial Filing'') and were immediately effective on January 2, 2023.[3] However, the system updates necessary to implement the changes in the Initial Filing have not been completed. The updates will be completed by Q3 2023.

Due to the delay in these system updates, Nasdaq is proposing to reinsert certain rule text changes into Equity 2 Section 5(a)(2) and Section 11(a). More specifically, the Exchange is reinserting previously deleted references to a Market Maker's and an Electronic Communications Network's (''ECN'') use of a Primary MPID and additional MPIDs (''Supplemental MPIDs'') in Equity 2, Section 5(a)(2)(J) and Section 5(a)(2)(K). Although the Exchange has eliminated the distinction between Primary and Supplemental MPIDs, the technology updates that are required to remove the distinction from its system are expected to be completed in Q3 2023. To ensure that the rulebook is compliant with current system operations, the Exchange is proposing to reinsert the previously deleted references.

Additionally, the Exchange is proposing to amend Equity 2, Section 11(a). Specifically, the Exchange is proposing to amend the re-registration waiting period for Nasdaq Market Makers that terminate registration in a security. In the Initial Filing, the Exchange reduced the re-registration waiting period from twenty business days to 5 business days.[4] However, the Exchange is proposing to roll back the rule text language to twenty business days because the system updates that are required to reduce the re-registration waiting period to 5 business days are not expected to be completed until Q3 2023. The Exchange represents that a rollback of the re-registration waiting period will not have an impact on any Nasdaq Market Maker because none have terminated registration in a security since the Initial Filing became effective. The Exchange also represents that no Nasdaq Market Maker will be affected by the rollback of the distinction between Primary and Secondary MPIDs because the Exchange has eliminated the distinction between Primary and Supplemental MPIDs.[5] The proposed changes are identical to the rules previously removed from Equity 2, Section 5(a)(2)(J) and Section 5(a)(2)(K) in the Initial Filing. Similarly, the proposed change to the re-registration waiting period reinstates the time period that was previously removed from Equity 2, Section 11(a).

The Exchange is not proposing to modify any other aspect of the Initial Filing and no market participants has been affected by the proposed amendments to reinstate the rule text related to a Market Maker's and an ECN's use of a Primary MPID and Supplemental MPIDs.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is 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.

As discussed above, the Exchange has already eliminated the distinction between Primary and Supplemental MPIDs. Because the Exchange has an obligation to ensure that its rule text aligns with the operation of its system, the proposed rule changes are intended to remove any potential impediments to a free and open market and a national market system by keeping the previous rule text in place until technology updates to remove the distinction from our system are finalized.

Similarly, no market participants have been affected by the proposal to revert the re-registration waiting period for Nasdaq Market Makers that terminate registration in a security.[8] The proposed rule change will remove any potential impediments to a free and open market and a national market system by allowing the Exchange to maintain compliance with its obligation to ensure that its rule text aligns with the operation of its system. When the system updates are ready, the Exchange will submit a subsequent rule filing to reinstate the reverted changes from the Initial Filing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As explained above, the purpose of this proposal is to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 96507 (December 15, 2022), 87 FR 78154 (December 21, 2022) (''Initial Filing'').

[4] *See* Initial Filing at 78154.

[5] *Id.* at 78155.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] Since the Initial Filing became effective, no market makers have terminated registration from a security.

add certain rule text changes that were prematurely removed from Equity 2 Section 5(a)(2) and Section 11(a). Furthermore, as discussed above, the Exchange has represented that no Market Maker has been affected by the distinction between Primary and Supplemental MPIDs because the Exchange has eliminated the distinction between Primary and Supplemental MPIDs, and no market maker has terminated registration or attempted to re-register in a security since the Initial Filing became operative on January 2, 2023. Therefore, the Exchange does not expect reinserting the proposed rule text to place any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [9] and subparagraph (f)(6) of Rule 19b–4 thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b–4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the operative delay so that the proposal may become operative upon filing in order to permit the Exchange to immediately reflect rules that align with Nasdaq's current system capabilities until Nasdaq system updates are completed. The Commission thus believes that waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[11]

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: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2023–001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2023–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2023–001, and should be submitted on or before March 10, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–03333 Filed 2–16–23; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12), (59).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before March 20, 2023.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/*PRAMain. Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with regulations and policy, the Small Business Development

Centers (SBDCs) must provide SBA semi-annual financial and programmatic reports outlining expenditures and accomplishments. The information collected will be used to monitor the progress of the program. The Office of Entrepreneurial Development made minor adjustments to the form in number 3), under the heading EXPENSE CATEGORY to align with the SF 424 as follows:

1. Travel is moved from the fifth line to the third line.
2. Equipment is moved from the sixth line to the fourth line.
3. Supplies is moved from the seventh line to the fifth line.
4. Contractual is added as the sixth line.
5. Consultants is moved from the third line to the seventh line.

The remainder of the form stays the same.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information., OMB Control 3245–0169.

Title: ''Federal Cash Transaction Report; Financial Status Report Program Income Report Narrative Program Report''.

Description of Respondents: SBDC Program Stakeholders, including State Directors.

Estimated Number of Respondents: 126.

Estimated Annual Responses: 126.

Estimated Annual Hour Burden: 7,308.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2023–03458 Filed 2–16–23; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17785 and #17786; Georgia Disaster Number GA–00152]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Georgia

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Georgia (FEMA–4685–DR), dated 02/10/2023.

Incident: Severe Storms, Straight-line Winds, and Tornadoes.

Incident Period: 01/12/2023.

DATES: Issued on 02/10/2023.

Physical Loan Application Deadline Date: 04/11/2023.

Economic Injury (EIDL) Loan Application Deadline Date: 11/13/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 02/10/2023, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations. The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Butts, Crisp, Henry, Jasper, Meriwether, Newton, Spalding, Troup.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.375
Non-Profit Organizations without Credit Available Elsewhere	2.375
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.375

The number assigned to this disaster for physical damage is 17785 C and for economic injury is 17786 0.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2023–03325 Filed 2–16–23; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before March 20, 2023.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: The Small Business Administration established a Government-wide mentor-protégé program for all small business concerns, (the All Small Mentor Protégé Program) consistent with SBA's mentor-protégé program for Participants in SBA's 8(a) Business Development (BD) program. This information collection facilitates ongoing implementation and administration of that program. The collection of information consists of: SBA Form 2459, Mentor Protégé Agreement, which collects information to assist with evaluating the protégé's needs and goals as well as the mentor's ability to meet those needs; SBA Form 2460, Mentor Protégé Benefits Report, which collects information to determine the participants continuing eligibility to participate in the All Small Business Mentor Protégé Program and evaluate program performance, including the level of technical, management, and financial assistance the mentor provided to the protégé. Each mentor is also required to submit information to show that it is financially capable of carrying out its responsibilities to assist the protégé firm meet its goals. Finally, for those mentors and proteges that are involved in joint ventures, this

information collection requires them to submit a copy of quarterly financial statements and performance of work reports to help SBA monitor compliance with performance of work requirements.

Both Forms 2459 and 2460 have been changed to collect additional information. Changes to Form 2459 include questions about other mentor protégé agreements and information that might lead to a finding of affiliation between the mentor and protege, and changes to Form 2460 include additional clarifying questions about joint ventures, contract offers, awards and performance, as well as information about subcontract awards and the protégé's revenue and/or staff growth.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

OMB Control 3245–0393

Title: ''Mentor Protégé Program.''

Description of Respondents: Small or large business concerns participating in the All Small Mentor Protégé program as a protégé or mentor, consistent with SBA's mentor-.

Estimated Number of Respondents: 2,000.

Estimated Annual Responses: 10,000.

Estimated Annual Hour Burden: 12,000.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2023–03379 Filed 2–16–23; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-Day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before March 20, 2023.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/*PRAMain. Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: The Small Business Act, as amended by the Small Business Innovation Research (SBIR) and Small Business Technology Transfer Program (STTR) Reauthorization Act of 2011, requires SBA to collect regarding the SBIR and STTR awards made by the federal agencies that participate in those programs. SBA is required to maintain this information in searchable electronic databases and also to report the information to Congress annually.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

OMB Control 3245–0356

Title: Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) *SBIR.gov* Database.

Description of Respondents: SBA to collect regarding the SBIR and STTR awards made by the federal agencies.

Estimated Number of Respondents: 14,500.

Estimated Annual Hour Burden: 21,750.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2023–03376 Filed 2–16–23; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: 30-day notice.

SUMMARY: The Small Business Administration (SBA) is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act and OMB procedures, SBA is publishing this notice to allow all interested member of the public an additional 30 days to provide comments on the proposed collection of information.

DATES: Submit comments on or before March 20, 2023.

ADDRESSES: Written comments and recommendations for this information collection request should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection request by selecting ''Small Business Administration''; ''Currently Under Review,'' then select the ''Only Show ICR for Public Comment'' checkbox. This information collection can be identified by title and/or OMB Control Number.

FOR FURTHER INFORMATION CONTACT: You may obtain a copy of the information collection and supporting documents from the Agency Clearance Office at *Curtis.Rich@sba.gov;* (202) 205–7030, or from *www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: The U.S. Small Business Administration's (SBA) statutory mission is to ''aid, counsel, assist and protect, insofar as is possible, the interests of small business concerns.'' The Agency's Office of Entrepreneurial Development (OED) helps to carry out this mission by providing training and counseling programs and initiatives, such as the Regional Innovation Clusters (RIC) initiative, to existing and prospective small businesses.

Through the RIC initiative, the SBA is investing in regional clusters—geographic concentrations of interconnected companies, specialized suppliers, academic institutions, service providers, and associated organizations with a specific industry focus—throughout the United States that span a variety of industries, ranging from energy and manufacturing to advanced defense technologies.

The RIC Initiative capitalizes on the theory of regional cluster development

by supporting ''actively managed'' clusters (*i.e.,* clusters that are administered by a team of individuals and possess a form of governance rather than a cluster that occurs naturally without intervention in a regional economy). The clusters provide a host of services to the target population of small and emerging businesses within their regional and industry focuses. Services include direct business advising and support and sponsoring events, such as networking opportunities with investors, large businesses, and other stakeholders in the regions.

Solicitation of Public Comments

Comments may be submitted on (a) whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

OMB Control 3245–0392

Title: Evaluation of the Regional Innovation Cluster (RIC) Initiative.

Description of Respondents: Small business concerns.

Estimated Number of Respondents: 256.

Estimated Annual Responses: 256.

Estimated Annual Hour Burden: 1,212.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2023–03363 Filed 2–16–23; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17761 and #17762; Georgia Disaster Number GA–00151]

Presidential Declaration Amendment of a Major Disaster for the State of Georgia

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Georgia (FEMA–4685–DR), dated 01/16/2023.

Incident: Severe Storms, Straight-line Winds, and Tornadoes.

Incident Period: 01/12/2023.

DATES: Issued on 02/10/2023.

Physical Loan Application Deadline Date: 03/17/2023.

Economic Injury (EIDL) Loan Application Deadline Date: 10/16/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Recovery & Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for the State of Georgia, dated 01/16/2023, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Pike.

Contiguous Counties (Economic Injury Loans Only):

All contiguous counties have been previously declared.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Rafaela Monchek,

Acting Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2023–03326 Filed 2–16–23; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 11983]

60-Day Notice of Proposed Information Collection: Two (2) Passport Services Information Collections: Application for Consular Report of Birth Abroad of a Citizen of the United States of America and Affidavit of Physical Presence or Residence, Parentage, and Support

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collections described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on these collections from all interested individuals and organizations. The purpose of this Notice is to allow 60 days for public comment.

DATES: The Department will accept comments from the public up to April 18, 2023.

ADDRESSES: You may submit comments by any of the following methods:

- *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov.* You can search for the document by entering ''Docket Number: DOS–2023–0002 in the Search field. Then click the ''Comment Now'' button and complete the comment form. Email and regular mail options have been suspended to centralize receiving and addressing all comments in a timely manner.
- *Email: Passport-Form-Comments@State.gov*.

You must include the DS form number (if applicable), information collection title, and the OMB control number in the email subject line.

SUPPLEMENTARY INFORMATION:

Title of Information Collection: Application for Consular Report of Birth Abroad of a Citizen of the United States of America.

OMB Control Number: 1405–0011.

Type of Request: Revision of a Currently Approved Collection.

Originating Office: Bureau of Consular Affairs, Passport Services (CA/PPT).

Form Number: DS–2029.

Respondents: United States Citizens and Nationals.

Estimated Number of Respondents: 85,170.

Estimated Number of Responses: 85,170.

Average Time per Response: 60 minutes.

Total Estimated Burden Time: 85,170 hours.

Frequency: On occasion.

Obligation to Respond: Voluntary.

Title of Information Collection: Affidavit of Physical Presence or Residence, Parentage, and Support.

OMB Control Number: 1405–0187.

Type of Request: Revision of a Currently Approved Collection.

Originating Office: Bureau of Consular Affairs, Passport Services (CA/PPT).

Form Number: DS–5507.

Respondents: Individuals and Organizations.

Estimated Number of Respondents: 45,869.

Estimated Number of Responses: 45,869.

Average Time per Response: 30 minutes.

Total Estimated Time Burden: 22,935 hours.

Frequency: On occasion.

Obligation to Respond: Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department,
- Evaluate the accuracy of our estimate of the time and cost burden for

this proposed collection, including the validity of the methodology and assumptions used,

• Enhance the quality, utility, and clarity of the information to be collected,

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

• *1405–0011, DS–2029, Application for Consular Report of Birth Abroad of a Citizen of the United States of America:* The form is used to apply for a Consular Report of Birth Abroad of a U.S. citizen. The information collected on this form will be used to certify the acquisition of U.S. citizenship at birth of a person born abroad. 8 U.S.C. 1104 and 22 CFR 50.5 through 50.7 are among the important legal authorities pertaining to the Department's use of this form.

• *1405–0187, DS–5507, Affidavit of Physical Presence or Residence, Parentage, and Support:* The form is used to determine whether a U.S. national parent has met the statutory physical presence or residence requirements to transmit U.S. nationality to their child born abroad or in a United States territory for U.S. noncitizen nationality; to establish parentage of the child; and to fulfill the requirements of 8 U.S.C. 1409(a), which permits acknowledgment of paternity under oath and requires the U.S. citizen father's written agreement to provide financial support for a child born abroad out of wedlock to a U.S. citizen father.

The DS–2029, Application for Consular Report of Birth Abroad of a Citizen of the United States of America, has been amended based on changes in Department policy. The Department's new gender policy permits passport applicants to select the gender marker on their passport without presenting medical documentation of gender transition. This policy change includes updating forms to add a third gender marker ''X'' for applicants identifying as non-binary, intersex, and/or gender non-conforming (in addition to the existing ''M'' and ''F'' gender markers).

Both the DS–2029 and the DS–5507 have been amended to replace the term ''sex'' with ''gender'' and to be pronoun-inclusive of all genders.

Both forms have been amended to reflect the Department's updated interpretation of Section 301 of the Immigration and Nationality Act (INA). Under the updated interpretation, INA Section 301 applies to children born abroad to parents who are married to each other at the time of the child's birth, when the child has a genetic or gestational connection to at least one of the parents in the marriage, and one of the parents in the marriage is a U.S. citizen. This updated interpretation accommodates modern families and the growing use of Assisted Reproductive Technology (ART) and surrogacy. The Department's previous interpretation of the INA required a child born abroad to a U.S. citizen parent and a foreign national parent to have a genetic or gestational tie to the U.S. citizen parent to acquire U.S. citizenship at birth (if all other statutory transmission requirements are met). The Department had considered births abroad where one of the parents did not have a genetic or gestational tie to the child as ''out of wedlock,'' even if the parents were married, and adjudicated such claims under INA Section 309. The Department will now adjudicate citizenship claims under the ''in wedlock'' provisions of INA Section 301 when the parents are married at the time of the child's birth and at least one parent has a genetic or gestational tie to the child. Under the updated interpretation, the child may have a genetic or gestational tie to either parent in a legal marriage—if one of those parents is a U.S. citizen and all other statutory transmission requirements have been met—to acquire U.S. citizenship at birth. A child born abroad in this circumstance is now considered to be born ''in wedlock'' for the purposes of INA Section 301.

Finally, the DS–5507 instructions regarding periods of physical presence or residence in the United States or abroad have been amended to decrease the burden on the public by clarifying that the Department will accept just the Month and Year [or MM–YYYY format] for time frames if exact dates are unknown. However, the instructions also indicate that the individual may be asked to provide exact dates if necessary to determine that statutory transmission requirements have been met.

Methodology

Parents normally submit an application for a Consular Report of Birth Abroad at a U.S. embassy or consulate in the consular district in which the birth occurred. A consular officer will interview the parent(s)/guardian, examine the application and supporting documentation, and enter the information provided into the Department of State American Citizen Services (ACS) electronic database.

Parent(s) may complete and submit the Affidavit of Physical Presence or Residence, Parentage, and Support in person or by mail. The form may be accessed online, completed electronically, printed, and signed; or it may be downloaded, printed, and filled out manually.

The DS–2029 is also available in an online format (known as ''eCRBA''). The eCRBA will allow applicants to enter their data, upload required documents, pay fees, and schedule an appointment to appear at the adjudicating post for an interview.

Additionally, the applicant will be able to check the status of their application. The eCRBA pilot launched in March 2019 at posts located in Toronto, Mexico City, Frankfurt, Paris, Tokyo, and Sydney. The Department continues to work on enhancements with an anticipated phased global rollout in 2023.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, Department of State.

[FR Doc. 2023–03371 Filed 2–16–23; 8:45 am]

BILLING CODE 4710–06–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36667]

McKees Rocks Railroad LLC—Acquisition and Operation Exemption—Pittsburgh, Allegheny & McKees Rocks Railroad Company

McKees Rocks Railroad LLC (McKees Rocks), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 3.36 miles of rail line [1] owned by Pittsburgh, Allegheny & McKees Rocks Railroad Company (PAM) and its parent company, McKees Rocks Industrial Enterprises, Inc. (MRIE),[2] located at McKees Rocks, in Allegheny County, Pa. (the Line), as well as yard tracks and sidings.

According to the verified notice, McKees Rocks and PAM/MRIE have reached an agreement in principle pursuant to which McKees Rocks, with the support of its parent company, SunCap Property Group, will acquire the Line and redevelop PAM's former McKees Rocks, Pa. facility. The verified notice indicates that McKees Rocks does

[1] McKees Rocks states that the track does not have mileposts.

[2] According to the verified notice, PAM owns the trackage and MRIE owns the underlying real estate.

not plan on operating the Line itself, but rather intends to contract with a third-party operator should future lessees at the McKees Rocks, Pa. facility request service.

According to McKees Rocks, the proposed transaction does not contain an interchange commitment. McKees Rocks certifies that its projected annual revenues resulting from the transaction will not exceed $5 million and will not result in McKees Rocks' becoming a Class I or Class II rail carrier.

The earliest this transaction may be consummated is March 4, 2023, 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 February 24, 2023 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36667, 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 McKees Rocks' representative, William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave. NW, Suite 300, Washington, DC 20037.

According to McKees Rocks, 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: February 14, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Andrea Pope-Matheson,

Clearance Clerk.

[FR Doc. 2023–03471 Filed 2–16–23; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 733 (Sub-No. 1X)]

Housatonic Railroad Company, Inc.—Discontinuance of Service—Dutchess and Putnam Counties, N.Y.

Housatonic Railroad Company, Inc. (HRRC), has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue trackage rights over the rail line known as the Beacon Line located between milepost 0.0 at Beacon, N.Y., and milepost 71.2 [1] at the Connecticut/New York state line, for a total distance of 41.1 miles, in Dutchess and Putnam Counties, N.Y. (the Line).[2] The Line traverses U.S. Postal Service Zip Codes 12508, 12524, 12533, 12582, 12570, 12531, 12563, 10509, and 12564.

HRRC has certified that: (1) it has moved no local traffic over the Line for at least two years; (2) any common carrier overhead traffic can be rerouted; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service on the Line is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) [3] to subsidize continued rail service has been received, this exemption will be effective on March 19, 2023, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues [4] and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2) [5] must be filed by February 27, 2023.[6] Petitions to reopen must be filed by March 9, 2023.

All pleadings, referring to Docket No. AB 733 (Sub-No. 1X), must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading filed with the Board must be sent to HRRC's representative, Edward J. Rodriguez, Housatonic Railroad Company, Inc., 4 Huntley Road, P.O. Box 687, Old Lyme, CT 06371.

If the verified notice contains false or misleading information, the exemption is void ab initio.

This action will not significantly impact the quality of the human environment or the conservation of energy resources.

Board decisions and notices are available at *www.stb.gov.*

Decided: February 14, 2023.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Stefan Rice,

Clearance Clerk.

[FR Doc. 2023–03438 Filed 2–16–23; 8:45 am]

BILLING CODE 4915–01–P

[1] The connecting branches that form the Line also retain their original milepost designations used by the former New York Central and New York, New Haven & Hartford, which are milepost 12.8 and milepost 42.9.

[2] The Line is owned by Metro-North Commuter Railroad Company (Metro-North). When the Board's predecessor, the Interstate Commerce Commission, authorized Metro-North's acquisition of the Line in 1995, it exempted Metro-North from most of the provisions of Subtitle IV of Title 49 of the U.S. Code. (Verified Notice 2–3.)

[3] Persons interested in submitting an OFA to subsidize continued rail service must first file a formal expression of intent to file an offer, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(2)(i).

[4] Typically, a discontinuance does not require environmental review because the environmental review will occur during any later abandonment. However, in certain situations where the owner of a rail line proposed for discontinuance does not require Board approval to abandon the line, a discontinuance may require environmental review. *See* 49 CFR 1105.6(b)(3). On September 9, 2022, the Board's Office of Environmental Analysis (OEA) issued a Final Environmental Assessment (Final EA) covering the Line in a related proceeding: *Metro-North Commuter Railroad—Adverse Discontinuance of Trackage Rights—Housatonic Railroad,* Docket No. AB 1311. No environmental or historic preservation issues were raised by any party or identified by OEA in that Final EA. Accordingly, because OEA has recently conducted an appropriate environmental review concerning the Line at issue, a finding of no significant impact under 49 CFR 1105.10(g) will be made pursuant to 49 CFR 1011.7(a)(2)(ix).

[5] The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

[6] Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate in this docket. However, the Board has granted in the past a petition for partial revocation of a 49 U.S.C. Subtitle IV exemption to permit the owner a line to seek abandonment authority in order to pursue interim trail use/rail banking. *See Caldwell R.R. Comm'n—Exemption from 49 U.S.C. Subtitle IV,* FD 32659 (Sub-No. 2) (STB served Sept. 8, 2015).

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2022–0038; Notice 1]

Mercedes-Benz USA, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: Mercedes-Benz USA, LLC, (Mercedes-Benz) and Daimler Vans USA, LLC, (Daimler Vans), have determined that certain model year (MY) 2020–2021 VS20 Metris (Platform 447) vans do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less.* Daimler Vans filed an original noncompliance report dated March 8, 2022. Mercedes-Benz subsequently petitioned NHTSA on March 31, 2022, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Mercedes-Benz's petition.

DATES: Send comments on or before March 20, 2023.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the 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 comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at *https://www.regulations.gov/.* Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at *https://www.regulations.gov* by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: Ahmad Barnes, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–7236.

SUPPLEMENTARY INFORMATION:

I. *Overview:* Mercedes-Benz and Daimler Vans determined that certain MY 2020–2021 VS20 Metris (Platform 447) vans do not fully comply with paragraph S4.3(d) of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less.* (49 CFR 571.110).

Mercedes-Benz filed an original noncompliance report dated March 8, 2022, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* Mercedes-Benz subsequently petitioned NHTSA on March 31, 2022, for an exemption from the notification and remedy requirements of 49 U.S.C. chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance.*

This notice of receipt of Mercedes-Benz's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. *Vehicles Involved:* Approximately 700 MY 2020–2021 VS20 Metris (Platform 447) vans, manufactured between June 2, 2020, and October 12, 2021, are potentially involved:

III. *Noncompliance:* Mercedes-Benz explains that the subject vehicles are equipped with a vehicle placard that incorrectly states the spare tire size for which the subject vehicles were originally equipped as required by paragraph S4.3(d) of FMVSS No. 110. Specifically, the vehicle placard states that the spare tire size is ''225/55R17C'' when it should be ''205/65R16C.''

IV. *Rule Requirements:* Paragraph S4.3(d) of FMVSS No. 110 includes the requirements relevant to this petition. Each vehicle, except for a trailer or incomplete vehicle, must show the tire size designation on a placard permanently affixed to the driver's side B-pillar and indicated by the headings ''size'' or ''original tire size'' or ''original size,'' and ''spare tire'' or ''spare,'' for the tires installed at the time of the first purchase for purposes other than resale. For full size spare tires, the statement ''see above'' may, at the manufacturer's option replace the tire size designation. If no spare tire is provided, the word ''none'' must replace the tire size designation.

V. *Summary of Mercedes-Benz's Petition:* The following views and arguments presented in this section, ''V. Summary of Mercedes-Benz's Petition,'' are the views and arguments provided by Mercedes-Benz. They have not been evaluated by the Agency and do not reflect the views of the Agency. Mercedes-Benz describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Mercedes-Benz explains that the subject noncompliance was discovered during an internal audit, and it was ''determined that incorrect spare tire information had been printed on placards due to an error documenting the spare tire size in the printing software used to produce the placards.'' Mercedes-Benz says that it promptly

corrected the error in the printing software on November 5, 2021.

According to Mercedes-Benz, the incorrect tire size designation on the vehicle placard ''would have no effect on vehicle safety or operation.'' In the event that a consumer purchased a spare tire with the tire size indicated on the vehicle placard, Mercedes-Benz says that the ''tire would meet all loading and performance requirements for a temporary use spare tire.'' Mercedes-Benz claims that ''the tire specified on the incorrect placard could be substituted for the original spare tire without any adverse safety consequences.'' Mercedes-Benz explains that the misprinted tire size and the spare tire equipped with the subject vehicles ''both would enable the vehicles to be operated within specified performance and loading limits.'' Specifically, Mercedes-Benz says that ''either spare tire is rated to carry loads greater than 1,599 lbs. (for each tire) necessary to prevent overloading'' of the subject vehicles and the recommended inflation pressure is the same for both tires, ''so there is no risk that the placard would cause a customer to under- or over-inflate either tire.''

Mercedes-Benz claims that the noncompliance is inconsequential to motor vehicle safety because the spare tire would only be used ''for a short period of time'' and only until the series tire can be replaced, after which the spare tire would be put back in the vehicle for future use. Mercedes-Benz adds that the owner's manual includes warnings that ''clearly advise the vehicle owner that a spare tire should only be used for a very short time and at speeds of less than 50 mph.''

Furthermore, Mercedes-Benz says replacing the spare tire based on the incorrect size would require the spare tire and rim to be replaced while ''ignoring the correct size plainly displayed on the very tire being replaced.''

Although the tire information placard was misprinted, Mercedes-Benz says the subject vehicles are equipped with the correct size spare tire, and the spare tire is labeled with the correct tire size. Mercedes-Benz states that if a consumer used the misprinted tire information to replace the original spare tire, ''the tire would not fit the original rim,'' therefore, Mercedes-Benz believes the correct tire size of the original spare would be immediately identified.

Mercedes-Benz believes NHTSA's prior decisions on inconsequentiality petitions support the granting of the subject petition. Mercedes-Benz refers to the following decisions of inconsequential noncompliance:

- Chrysler Group, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 38443 (June 26, 2013),
- BMW of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 84 FR 26505 (June 6, 2019)
- General Motors, LLC Grant of Petition for Decision of Inconsequential Noncompliance, 84 FR 25117 (May 30, 2019)
- BMW of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 81 FR 62970 (September 13, 2016)
- BMW of North America, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 76408 (December 17, 2013)

Mercedes-Benz concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Mercedes-Benz no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Mercedes-Benz notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 2023–03403 Filed 2–16–23; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Election to Treat Trust as Part of an Estate.

DATES: Written comments should be received on or before April 18, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov*.

Include ''OMB Number 1545–1578-Election to Treat Trust as Part of an Estate'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202)317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Election to Treat Trust as Part of an Estate.

OMB Number: 1545–1578.

Regulation Project Number: TD 9032.

Abstract: This regulation describes the procedures and requirements for making an election to have certain revocable trusts treated and taxed as part of an estate. The Taxpayer Relief Act of 1997 added section 646 to the Internal Revenue Code to permit the election.

Current Actions: There are no changes to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 10,000.

Estimated Time per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 5,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2023.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2023–03382 Filed 2–16–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 14242 and 14242(SP)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Reporting Abusive Tax Promotions or Preparers and Informe las Presuntas Promociones de Planes Abusivos Tributarios o de Preparadores.

DATES: Written comments should be received on or before April 18, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Number 1545–2219—Reporting Abusive Tax Promotions or Preparers and Informe las Presuntas Promociones de Planes Abusivos Tributarios o de Preparadores'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202)317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Reporting Abusive Tax Promotions or Preparers.

OMB Number: 1545–2219.

Form Numbers: 14242 and 14242(SP).

Abstract: Form 14242 and Form 14242(SP) are used to document the information necessary to report an abusive tax avoidance scheme. Form 14242 (SP) is the Spanish version of Form 14242. Respondents can be individuals, businesses and tax return preparers.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or Households, Farms, Businesses and other for-profit or not-for-profit organizations.

Estimated Number of Respondents: 460.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 77 hours.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2023.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2023–03383 Filed 2–16–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8703

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Annual Certification of a Residential Rental Project.

DATES: Written comments should be received on or before April 18, 2023 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Number 1545–1038—Annual Certification of a Residential Rental Project'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or

through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Annual Certification of a Residential Rental Project.

OMB Number: 1545–1038.

Form Number: 8703.

Abstract: Form 8703 is used by the operator of a residential rental project to provide annual information that the IRS will use to determine whether a project continues to be a qualified residential rental project under Internal Revenue Code section 142(d). If so, and certain other requirements are met, bonds issued in connection with the project are considered ''exempt facility bonds'' and the interest paid on them is not taxable to the recipient.

Current Actions: There are no changes in the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 6,000.

Estimated Time per Respondent: 12 hours, 47 minutes.

Estimated Total Annual Burden Hours: 76,620.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2023.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2023–03384 Filed 2–16–23; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Periodic Meeting of the Department of the Treasury Tribal Advisory Committee

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces that the Department of the Treasury Tribal Advisory Committee (TTAC) will convene a public meeting from 1 p.m.–4 p.m. Eastern Time on Tuesday, March 14, 2023. The meeting will be held in person at the Treasury Building in Washington, DC. The meeting is open to the public.

DATES: The meeting will be held on Tuesday, March 14, 2023, from 1 p.m.–4 p.m. Eastern Time.

ADDRESSES: Please visit *https://events.treasury.gov/s/event-template/a2m3d0000000dD5AAI* to register for the Tuesday, March 14, 2023, public meeting. When registering for the public meeting, you will be asked to provide your name, title, and organizational affiliation and whether you wish to make public comments. Those wishing to make public comments at the public meeting should register no later than three business days before the public meeting. Written comments must be received 15 calendar days before the public meeting in order to be considered during the public meeting. Written comments can be emailed to *TTAC@treasury.gov.* If you have questions regarding the public meeting, please email *TTAC@treasury.gov.*

If you require a reasonable accommodation, please contact the Departmental Offices Reasonable Accommodations Coordinator at *ReasonableAccommodationRequests@treasury.gov.* If requesting a sign language interpreter, please make sure your request to the Reasonable Accommodations Coordinator is made at least (5) five days prior to the event if at all possible.

FOR FURTHER INFORMATION CONTACT: Krishna P. Vallabhaneni, Designated Federal Officer, by emailing *TTAC@treasury.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 3 of the Tribal General Welfare Exclusion Act of 2014, Public Law 113–68, 128 Stat. 1883, enacted on September 26, 2014 (TGWEA), directs the Secretary of the Treasury (Secretary) to establish a seven member Tribal Advisory Committee to advise the Secretary on matters related to the taxation of Indians, the training of Internal Revenue Service field agents, and the provision of training and technical assistance to Native American financial officers.

Pursuant to Section 3 of the TGWEA and in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. 1001 *et seq.,* the TTAC was established on February 10, 2015, as the ''U.S. Department of the Treasury Tribal Advisory Committee.'' The TTAC's Charter provides that it shall operate under the provisions of the FACA and shall advise and report to the Secretary on:

(1) Matters related to the taxation of Indians;

(2) The establishment of training and education for internal revenue field agents who administer and enforce internal revenue laws with respect to Indian tribes of Federal Indian law and the Federal Government's unique legal treaty and trust relationship with Indian tribal governments; and

(3) The establishment of training of such internal revenue field agents, and provisions of training and technical assistance to tribal financial officers, about implementation of the TGWEA and any amendments.

Tenth Periodic Meeting

In accordance with section 10(a)(2) of the FACA and implementing regulations at 41 CFR 102–3.150, Krishna P. Vallabhaneni, the Designated Federal Officer of the TTAC, has ordered publication of this notice to inform the public that the TTAC will convene its tenth periodic meeting on Tuesday, March 14, 2023, from 1 p.m.–4 p.m. Eastern Time.

Summary of Agenda and Topics To Be Discussed

During this meeting, the TTAC members will provide updates on the work of the TTAC's three subcommittees, hear comments from the public, and take other actions necessary to fulfill the TTAC's mandate.

Public Comments

Members of the public wishing to comment on the business of the TTAC are invited to submit written comments by emailing *TTAC@treasury.gov.* Comments are requested no later than 15 calendar days before a public meeting in order to be considered by the TTAC at that public meeting.

The Department of the Treasury will post all comments received on its website (*https://www.treasury.gov/resource-center/economic-policy/tribal-policy/Pages/Tribal-Policy.aspx*) without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. The Department of the Treasury will also make these comments available for public inspection and copying in the Department of the Treasury's Library, 720 Madison Place NW, Room 1020, Washington, DC 20220, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect statements by telephoning (202) 622–2000. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

Krishna P. Vallabhaneni,

Designated Federal Officer and Tax Legislative Counsel.

[FR Doc. 2023–03348 Filed 2–16–23; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0176]

Agency Information Collection Activity: Certification of Training Hours, Wages, and Progress; Withdrawn

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice; withdrawal.

SUMMARY: On Wednesday, February 8, 2023, the Veterans Benefits Administration (VA), published a notice in the **Federal Register** announcing an opportunity for public comment on the proposed collection Certification of Training Hours, Wages, and Progress (VA Form 28–1905c). This notice was published in error; therefore, this document corrects that error by withdrawing this FR notice, document number 2023–02693.

DATES: As of Wednesday, February 15, 2023, the FR notice published at 88, FR 26, page 8343 on Wednesday, February 8, 2023, is withdrawn.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov*.

SUPPLEMENTARY INFORMATION: FR Doc. 2023–02693, published on Wednesday, February 8, 2023 (88 FR 26, page 8343), is withdrawn by this notice.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–03443 Filed 2–16–23; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0176]

Agency Information Collection Activity: Certification of Training Hours, Wages, and Progress; Withdrawn

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice; withdrawal.

SUMMARY: On Thursday, February 9, 2023, the Veterans Benefits Administration (VA), published a notice in the **Federal Register** announcing an opportunity for public comment on the proposed collection Certification of Training Hours, Wages and Progress (VA Form 28–1905c). This notice was published in error; therefore, this document corrects that error by withdrawing this FR notice, document number 2023–02737.

DATES: As of Wednesday, February 15, 2023, the FR notice published at 88 FR 27, page 8513 on Thursday, February 9, 2023, is withdrawn.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 810 Vermont Ave. NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.*

SUPPLEMENTARY INFORMATION: FR Doc. 2023–02737, published on Thursday, February 9, 2023 (88 FR 27), is withdrawn by this notice.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2023–03447 Filed 2–16–23; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 88 Friday,
No. 33 February 17, 2023

Part II

Consumer Product Safety Commission

16 CFR Part 1101
Information Disclosure Under Section 6(b) of the Consumer Product Safety Act; Proposed Rule

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1101

[CPSC Docket No. CPSC–2014–0005]

Information Disclosure Under Section 6(b) of the Consumer Product Safety Act

AGENCY: Consumer Product Safety Commission.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The U.S. Consumer Product Safety Commission (CPSC or Commission) is issuing this supplemental notice of proposed rulemaking (Supplemental NPR) to update its regulation interpreting section 6(b) of the Consumer Product Safety Act (CPSA) (6(b) Regulation). On February 26, 2014, the Commission issued a notice of proposed rulemaking in this matter (2014 NPR). The 2014 NPR proposed to modernize the 6(b) Regulation to account for the significant improvements in information technology that have occurred since the regulation's initial adoption in 1983, and streamline the 6(b) Regulation to align more closely with the text of section 6(b), including with respect to protecting information filed by manufacturers, distributors, and retailers in accordance with the requirements of section 15(b) of the CPSA. This Supplemental NPR responds to public comments on the 2014 NPR and proposes additional changes to the 6(b) Regulation to further modernize and align the regulation with the statute.

DATES: Submit comments by April 3, 2023.

ADDRESSES: You may submit comments, identified by Docket No. CPSC–2014–0005, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *www.regulations.gov.* Follow the instructions for submitting comments. Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. CPSC typically does not accept comments submitted by electronic mail (email), except as described below.

Mail/hand delivery/courier: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone (301) 504–7479.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *www.regulations.gov.* If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Docket: For access to the docket to read background documents or comments received, go to: *www.regulations.gov,* and insert the docket number, CPSC–2014–0005, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Amy S. Colvin, Attorney, Division of Federal Court Litigation, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: 301–504–7639; email: *acolvin@cpsc.gov.*

SUPPLEMENTARY INFORMATION: The Commission issues this Supplemental NPR proposing to amend the CPSC's regulation, Information Disclosure Under Section 6(b) of the Consumer Product Safety Act, codified at 16 CFR part 1101.

I. Background

A. Statutory Authority

Section 6(b) of the CPSA governs the Commission's disclosure of certain information to the public. In general, section 6(b)(1) requires, ''prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith,'' that the Commission, ''to the extent practicable,'' provide manufacturers or private labelers with advance notice and opportunity to comment on the proposed disclosure, if the manner in which such consumer product is designated or described in such information ''permit[s] the public to ascertain readily the identity of such manufacturer or private labeler.'' 15 U.S.C. 2055(b)(1). The CPSA defines ''manufacturer'' to include an importer. 15 U.S.C. 2052(a)(11). Section 6(b)(1) also requires the Commission, prior to such public disclosure, to ''take reasonable steps to assure'' that the information CPSC intends to disclose ''is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act.'' *Id.* In 1980, the U.S. Supreme Court ruled that CPSC's disclosures under the Freedom of Information Act (FOIA) are among the public releases covered by the section 6(b)(1) restrictions. *CPSC* v. *GTE Sylvania, Inc.,* 447 U.S. 102 (1980).

The Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110–314, 122 Stat. 3016, enacted on August 14, 2008, amended section 6 of the CPSA. The amendments shortened, from 30 days to 15 days, the period for manufacturers and private labelers to receive advance notice and have an opportunity to comment on information that the Commission proposes to disclose. In addition, the amendments eliminated the requirement that the Commission publish a **Federal Register** notice when the Commission makes a finding that the public health and safety necessitates public disclosure with less notice than the default period specified in section 6(b)(1). CPSIA also broadened the statutory exceptions to section 6(b). For example, the amendments excluded from the requirements of section 6(b)(1)–(3) a public disclosure of information about any consumer product which the Commission has reasonable cause to believe is in violation of any consumer product safety rule or provision of the CPSA, or similar rule or provision of any other act enforced by the Commission.

B. History of the 6(b) Regulation

On December 29, 1983, the Commission published a final rule interpreting section 6(b) of the CPSA. 48 FR 57406; *see* 49 FR 8428 (Mar. 7, 1984) (technical correction). The 6(b) Regulation, 16 CFR part 1101, describes the Commission's procedures for providing manufacturers and private labelers advance notice and ''a reasonable opportunity to submit comments'' to the Commission on proposed disclosures of certain information. In addition, the 6(b) Regulation explains the ''reasonable steps'' the Commission will take pursuant to section 6(b) to assure, prior to public disclosure of covered information, that the information ''is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of this Act.'' In 2008, the Commission amended the 6(b) Regulation to reflect the CPSIA amendments. 73 FR 72334 (Nov. 28, 2008).

C. The 2014 NPR

On February 26, 2014, the Commission published the 2014 NPR. *Information Disclosure Under Section 6(b) of the Consumer Product Safety Act,* 79 FR 10712 (Feb. 26, 2014). The 2014 NPR was based on the following guiding principles:

1. Modernize the 6(b) Regulation to account for the significant advancements in information technology that have taken place since its initial adoption in 1983;

2. Streamline the 6(b) Regulation to be as closely aligned with 15 U.S.C. 2055(b) as possible, with the objectives of: (a) eliminating unnecessary administrative burdens to the agency; (b) removing extra-statutory requirements; (c) eliminating redundancies in providing notice; (d) minimizing FOIA backlogs; and (e) maximizing transparency and openness in the agency's disclosure of information;

3. Maintain CPSC's compliance with the statutory requirements of 15 U.S.C. 2055(b) (*i.e.,* requirements related to notice, opportunity to submit comments, and taking reasonable steps to assure accuracy, fairness in the circumstances, and reasonable relation to effectuating the purposes of the CPSA outlined in 15 U.S.C. 2051(b)); and

4. Maintain the protections of 15 U.S.C. 2055(b)(5) for information filed in accordance with the requirements of 15 U.S.C. 2064(b) (*i.e.,* Section 15(b) reports).

See Fiscal Year 2013 Midyear Review and Operating Plan Adjustments, available at *https://www.cpsc.gov/s3fs-public/pdfs/foia_RCAFY13MidyearReviewandOperatingPlanAdjustments%2520050313.pdf.*

The Commission received 24 comments on the 2014 NPR. As discussed in section III below, seven consumer groups supported the proposed revisions to modernize the regulation and make it more consistent with the statute and industry practice. However, these commenters were concerned that section 6(b)'s obstacles to transparency and the immediate release of crucial product safety information remain. The other commenters, comprising trade associations and one firm, objected to various proposals contained in the 2014 NPR. In general, these commenters asserted that the proposed revisions would result in the disclosure of inaccurate or misleading information. Moreover, according to these commenters, some of the proposed changes could chill cooperation between the Commission and industry.

II. Detailed Description of the Proposed Revisions to the 6(b) Regulation

This section describes the changes proposed by this Supplemental NPR, in the order in which they appear in the proposed revised part 1101 of the Commission's rules.

A. Table of Contents

1. Proposed Changes to the Table of Contents

The 2014 NPR proposed a technical change to the Table of Contents. 79 FR 10713. The Supplemental NPR continues to propose this change. In addition, the Supplemental NPR proposes conforming changes to align the 6(b) Regulation with the statute, and minor grammatical edits for clarity. For example, the Supplemental NPR proposes to remove ''release'' and, in its place, add ''disclosure'' because section 6(b)(1) of the CPSA uses the terms, ''public disclosure,'' ''disclosure,'' ''disclosed,'' and ''disclosing.'' The Supplemental NPR also proposes to remove ''analysis'' and, in its place, add ''comment,'' because section 6(b)(1) requires the Commission to provide manufacturers and private labelers ''with a reasonable opportunity to submit comments.'' The Supplemental NPR proposes these conforming changes throughout the 6(b) Regulation. To improve clarity, the Supplemental NPR also proposes to redesignate § 1101.1 as ''Scope'' and § 1101.2 as ''General background.''

B. Subpart A—Background

1. Proposed Changes to § 1101.1 (General Background.)

To improve organization, the Supplemental NPR proposes to redesignate current § 1101.2 (Scope) as § 1101.1.

The 2014 NPR proposed technical changes to current § 1101.2 (which becomes § 1101.1). 79 FR 10713. The Supplemental NPR continues to propose only one of these technical changes: removing ''1476'' as a statutory section reference and, in its place, adding ''1477.''

Section 6(b)(1) of the CPSA applies to the Commission's ''public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith.'' 15 U.S.C. 2055(b)(1). Section 6(d)(1) of the CPSA defines ''Act'' as the CPSA, FFA, PPPA, and FHSA. 15 U.S.C. 2055(d)(1). Current § 1101.2, however, more broadly defines the legislative acts that are relevant to section 6(b) to include not only the laws specified in section 6(d)(1) of the CPSA, but also the Refrigerator Safety Act, the Virginia Graeme Baker Pool and Spa Safety Act, and the Children's Gasoline Burn Prevention Act. The Supplemental NPR proposes to revise this section to conform to the language in section 6(b)(1) and (d)(1) of the CPSA, by removing the additional laws. In connection with this revision, the Supplemental NPR proposes to refer collectively to the CPSA, FFA, PPPA, and FHSA as ''the Acts'' and to use this defined term throughout the 6(b) Regulation. The Supplemental NPR also proposes edits to the statutory citations. Thus, revised proposed § 1101.1 reads:

> These rules apply to the public disclosure of any information obtained under the Consumer Product Safety Act, 15 U.S.C. 2051–2090 (CPSA), the Flammable Fabrics Act, 15 U.S.C. 1191–1204 (FFA), the Poison Prevention Packaging Act of 1970, 15 U.S.C. 1471–1477 (PPPA), and the Federal Hazardous Substances Act, 15 U.S.C. 1261–1278a (FHSA) (collectively, ''the Acts''), or to be disclosed to the public in connection therewith.

2. Proposed Changes to § 1101.2 (Scope.)

To improve organization, the Supplemental NPR proposes to redesignate current § 1101.1 (General background) as § 1101.2.

The 2014 NPR proposed revising current § 1101.1(b)(1) to reflect more clearly that there are exceptions to section 6(b)(5)'s limitations on the disclosure of information submitted to the Commission under section 15(b) of the CPSA. 79 FR 10713. The Supplemental NPR builds upon this approach and proposes additional changes throughout redesignated § 1101.2 to conform to the statute. For example, the Supplemental NPR proposes to revise the first sentence in renumbered § 1101.2(b)(1) to conform to the language in section 6(b)(1). This revised sentence now reads:

> Generally, section 6(b)(1) requires, prior to the Commission's public disclosure of any information obtained under the Acts, or to be disclosed to the public in connection therewith, that the Commission, to the extent practicable, provide manufacturers or private labelers with advance notice and opportunity to comment on the information, if the manner in which such consumer product is designated or described in the information permits the public to ascertain readily the identity of the manufacturer or private labeler.

Likewise, the Supplemental NPR proposes to add ''consumer'' before ''product'' because section 6(b)(1) refers to ''consumer product,'' a term defined in section 3(a)(5) of the CPSA. 15 U.S.C. 2052(a)(5). The Supplemental NPR

proposes this conforming revision throughout the 6(b) Regulation.

The 2014 NPR also proposed inserting in § 1101.1(b)(1) the word, ''calendar,'' between ''15'' and ''days.'' 79 FR 10713. For clarity and consistency, the Supplemental NPR continues to propose this change, without revision, in those sections of the 6(b) Regulation that discuss timing. The specification of calendar days reflects CPSC's practice since 2008, when the Commission published a final rule to revise the 6(b) Regulation in accordance with the 6(b) amendments under CPSIA. 73 FR 72334.

The 2014 NPR proposed revising the date of CPSC's internal Directive 1450.2 as listed in current § 1101.1(c). 79 FR 10713. The Supplemental NPR proposes to delete the reference to Directive 1450.2 entirely, to avoid obsolescence if the Commission chooses to update or revise that document. The Supplemental NPR also proposes removing from current § 1101.2(c) the words, ''internal'' and ''internal clearance,'' to conform to the language in section 6(b)(6) of the CPSA, which does not use these terms.

Finally, to provide clarity to covered firms, the Supplemental NPR proposes to add a sentence at the end of current § 1101.2(b)(1), explaining the requirements of section 15(b) of the CPSA. The Supplemental NPR, for clarity, also proposes minor grammatical edits throughout redesignated § 1101.2.

C. Subpart B—Information Subject to Notice and Analysis Provisions of Section 6(b)(1)

1. Proposed Changes to Subpart B Heading

The Supplemental NPR proposes to remove ''Analysis'' and, in its place, add ''Comment'' to conform to the language in section 6(b)(1) of the CPSA.

2. Proposed Changes to § 1101.11 (General Application of Provisions of Section 6(b)(1).)

a. Proposed Changes to § 1101.11(a)

In § 1101.11(a), the Supplemental NPR proposes to remove ''analysis'' and, in its place, add ''comment'' to conform to the statute.

i. Proposed Changes to § 1101.11(a)(1)

Current § 1101.11(a)(1) states: ''The information must pertain to a specific product which is either designated or described in a manner which permits its identity to be ascertained readily by the public.'' The 2014 NPR proposed deleting the phrase, ''which is either designated or described in a manner which permits its identity to be ascertained readily by the public.'' 79 FR 10713–14. The Supplemental NPR proposes to delete § 1101.11(a)(1) entirely because section 6(b)(1) of the CPSA does not require that the information proposed for disclosure pertain to a specific product. Instead, section 6(b)(1) requires the Commission to provide a manufacturer or private labeler with advance notice and an opportunity to comment on the information, ''if the manner in which such consumer product is to be designated or described in such information will permit the public to ascertain readily *the identity of such manufacturer or private labeler.*'' 15 U.S.C. 2055(b)(1) (emphasis added). This statutory requirement that the public must be able to ascertain readily the identity of the manufacturer or private labeler of the consumer product is reflected in current § 1101.11(a)(4), which the Supplemental NPR proposes to redesignate as § 1101.11(a)(2).

ii. Proposed Changes to § 1101.11(a)(2) and (3)

Current § 1101.11(a)(2) states: ''The information must be obtained, generated or received by the Commission as an entity or by individual members, employees, agents, contractors or representatives of the Commission acting in their official capacities.'' The 2014 NPR proposed to revise § 1101.11(a)(2) to state: ''The information must be obtained under the acts the Commission administers, or be disclosed to the public in connection therewith.'' 79 FR 10714. The Supplemental NPR proposes additional changes to § 1101.11(a)(2) to align with the statute. Revised § 1101.11(a)(2), which the Supplemental NPR proposes to redesignate as § 1101.11(a)(3), now reads: ''The information must be obtained, generated or received under the Acts, or be disclosed to the public in connection therewith.''

The Toy Industry Association (TIA) suggested that the 2014 NPR's proposal to remove from § 1101.11(a)(2) the phrase, ''individual members, employees, agents, contractors or representatives of the Commission acting in their official capacities,'' could cause these individuals to believe that they are no longer subject to section 6(b). We disagree. Section 6(d)(2) of the CPSA states that the ''provisions of [section 6] shall apply whenever information is to be disclosed by the Commission, any member of the Commission, or any employee, agent, or representative of the Commission in an official capacity.'' This statutory provision is repeated in current § 1101.11(a)(3), which the Supplemental NPR proposes to redesignate as § 1101.11(a)(1) and to revise with minor edits to conform to the statute. Revised § 1101.11(a)(1) now reads: ''The Commission, any member of the Commission, or any employee, agent, or representative, including contractor, of the Commission in an official capacity must propose to disclose the information to the public (see § 1101.12).''

iii. Proposed Changes to § 1101.11(a)(4)

The Supplemental NPR proposes to redesignate § 1101.11(a)(4) as § 1101.11(a)(2) and to insert ''consumer'' between ''the'' and ''product'' to align with the statute. The Supplemental NPR also proposes minor grammatical edits to this section.

b. Proposed Changes to § 1101.11(b)

The 2014 NPR proposed revising § 1101.11(b)(1) to clarify that the requirements of section 6(b)(1) do not apply to the information described in the exceptions listed in section 6(b)(5) of the CPSA. These exceptions include the public disclosure of information with respect to a consumer product which is the subject of an action brought under section 12, or which the Commission has reasonable cause to believe is in violation of any consumer product safety rule or provision under the CPSA or similar rule or provision of any other act enforced by the Commission, or information in the course of or concerning a judicial proceeding. 15 U.S.C. 2055(b)(5). The Supplemental NPR continues to propose this change, incorporating a technical revision and minor grammatical edit.

The 2014 NPR also proposed adding the following three categories to the list of information not subject to the requirements of section 6(b):

- A report of harm posted on the publicly available consumer product safety information database;
- Information that is publicly available; and
- Information that is substantially the same as information that the Commission previously disclosed in accordance with section 6(b)(1), except as specified in § 1101.31(d).

i. Reports of Harm

The 2014 NPR proposed including reports of harm posted on the publicly available consumer product safety information database (currently known as and accessible at *SaferProducts.gov*) in the list of information not subject to section 6(b)(1), because section 6A(f)(1) of the CPSA specifically excludes such reports from the provisions of section

6(b). 15 U.S.C. 2055a(f)(1). 79 FR 10714. The Supplemental NPR continues to propose implementing this revision.

The Commission acknowledges commenters' concerns with the Commission disclosing, without following the section 6(b) requirements, reports of harm that are *not* published on *SaferProducts.gov.* Although section 6A(f)(1) of the CPSA specifically excludes from the requirements of section 6(b), reports of harm that are published on *SaferProducts.gov,* this provision does not address reports of harm that do not meet the criteria for publication. *Id.* Accordingly, the Commission will provide firms with any requisite 6(b) notice for reports of harm that are not published on *SaferProducts.gov.*

The National Association of Manufacturers (NAM) asserted that the section 6(b) exclusion for reports of harm ''applies strictly to the reports of harm on the database and does not apply to alternative disclosures of information contained in the report.'' Without examples or explanation of the phrase ''alternative disclosures,'' we are unable to respond meaningfully to this comment. In general, however, the Commission may release or identify information contained in a report of harm that is posted to *SaferProducts.gov,* without notice under section 6(b)(1), if (1) the Commission does not characterize the information contained in the report, and (2) the Commission's use of *SaferProducts.gov* information is accurate and not misleading. For example, the Commission could state that *SaferProducts.gov* received 15 reports of harm involving Manufacturer ABC's lamp. In contrast, the Commission would have to provide 6(b) notice and opportunity to comment if that same release also warned consumers to stop using the lamps due to a hazard, or contained other information that is a public disclosure subject to the notice requirement of section 6(b)(1).

ii. Information That Is Publicly Available

The 2014 NPR proposed including in the list of information not subject to section 6(b)(1) the following: ''Information that is publicly available or that has been disseminated in a manner intended to reach the public in general, such as news reports; articles in academic and scientific journals; press releases distributed through news or wire services; or information that is available on the Internet.'' 79 FR 10714. Commenters raised concerns regarding the scope of the 2014 NPR's proposed revision, noting that publicly available information may be inaccurate, biased, or misleading and the Commission's reference to such information implies that the information is verified, accurate, or reliable. The Commission recognizes that even though information appearing in a news article or in an organization's published report is available to the general public, the Commission's repetition of that information could be inconsistent with the intent of section 6.

Based upon the comments that we received, this Supplemental NPR proposes a different approach for information that is already available to the public. Specifically, the Commission proposes to specify that the requirements of section 6(b)(1) do not apply to: ''Information that has already been made available to the public through sources other than the Commission, provided the Commission clearly indicates the source of the information and the Commission's use of the information is accurate and not misleading.''

Under the revised approach proposed here, the Commission may release or identify information that the Commission obtained from publicly available sources (*e.g.,* news clippings), without notice under section 6(b)(1), if (1) the Commission does not characterize the publicly available information or relay new information, and (2) the Commission's use of the information is accurate and not misleading. In determining whether the Commission's use of the information is accurate and not misleading, the integrity of the source may be relevant. For example, the Commission could state that it is aware of an identified newspaper's article reporting 10 incidents involving Manufacturer ABC's stroller, provided it is reasonable to attribute integrity to the source of the information (*e.g.,* the newspaper follows journalistic standards) and the Commission's description of the newspaper's report is accurate and not misleading. However, the Commission would provide 6(b) notice and opportunity to comment before posting to a social media platform: ''Check your ABC stroller for dangerous hinges—[Newspaper name] reports injuries to 10 kids.'' In this example, the Commission's social media message implies that the Commission considers the information contained in the news article to be a basis for action, or even that the Commission has itself determined the stroller hinges pose a hazard.

iii. Information That Is Substantially the Same as Information That the Commission Previously Disclosed

The 2014 NPR proposed including the following to the list of information not subject to section 6(b)(1): ''(8) Information that is substantially the same as information that the Commission previously disclosed in accordance with section 6(b)(1), except as specified in § 1101.31(d).'' 79 FR 10715.

Based upon comments that the Commission received, which asserted that the 2014 NPR proposal is vague and difficult to apply, and upon further consideration, the Commission proposes a modified approach. Under this new approach, the requirements of section 6(b)(1) do not apply to: ''Information, not previously disclosed, that in context does not disclose materially more or materially different information about the consumer product than what the Commission previously disclosed in accordance with the law.'' For example, under this proposal, a Commissioner may relate in a speech the findings regarding Manufacturer A's blender that appeared in a published CPSC report on kitchen appliances, for which the Commission provided the requisite 6(b) notice. However, the Commissioner would not discuss other staff findings that do not appear in the published report, unless the Commission previously provided Manufacturer A with 6(b) notice regarding those additional findings.

iv. Press Releases Issued by Firms

The Supplemental NPR proposes to delete § 1101.11(b)(4), ''Press releases issued by firms.'' While we do not believe that section 6(b) requires the Commission to provide a manufacturer or private labeler with 6(b) notice and an opportunity to comment before the Commission provides the public with information that is available in the firm's own publicly available press release, we hold to the Supplemental NPR's position that it is unnecessary to state in the 6(b) Regulation this specific application of general principals.

c. Proposed Technical and Conforming Changes to § 1101.11

The 2014 NPR proposed three technical and conforming changes to § 1101.11. 79 FR 10715. The Supplemental NPR continues to propose these revisions, except for the proposal to remove ''16 CFR part 1017,'' which is listed as ''Reserved,'' and, in its place, add ''16 CFR part 1019,'' which is titled ''Export of Noncomplying, Misbranded, or Banned Products,'' in § 1101.11(b)(2).

Instead, the Supplemental NPR proposes to remove the reference to the Commission's Export Policy Statement, which is not applicable, and insert the relevant regulatory citation, 16 CFR 1019.7. In addition, the Supplemental NPR proposes to re-number the paragraphs in § 1101.11(b) to reflect the proposed deletion of ''(4) Press releases issued by firms'' and insert a cross-reference to subpart E in redesignated § 1101.11(b)(4).

3. Proposed Changes to § 1101.12 (Commission Must Disclose Information to the Public)

The 2014 NPR proposed technical and conforming changes to § 1101.12, including revising the heading to state: ''Definition of 'public.' '' 79 FR 10715. The Supplemental NPR continues to propose these changes, without revision.

For the requirements of section 6(b) to apply, the Commission, any member of the Commission, or any employee, agent, or representative, including contractor, of the Commission in an official capacity, must propose to disclose the information to the public. *See* revised § 1101.11a(1). Current § 1101.12 includes in the list of persons who are not considered members of the ''public'':

- ''The persons or firms to whom the information to be disclosed pertains, or their legal representatives'' (16 CFR 1101.12(d)); and
- ''The persons or firms who provided the information to the Commission, or their legal representatives'' (16 CFR 1101.12(e)).

For greater specificity, the Supplemental NPR proposes to remove the reference to ''persons or firms'' and, in its place, add ''Persons, including but not limited to, consumers, manufacturers, private labelers, retailers, or distributors.''

The Commission may (and routinely does) contact consumers or firms to discuss information involving that particular consumer or firm. For example, when a manufacturer or private labeler provides the Commission with incident information that also identifies the consumers involved in those incidents, the Commission may use that information to contact the consumers to conduct in-depth investigations of the incidents. Similarly, when a manufacturer or private labeler provides the Commission with the names of firms that distributed or sold a violative or defective product, the Commission may contact the distributor or retailer to obtain additional information about the product. In these instances, neither the consumer, distributor, nor retailer constitutes the ''public'' under § 1101.12, because the information to be disclosed pertains to (1) the particular consumer who experienced an incident with the product, or (2) the particular distributor or retailer who distributed or sold the product.

The Supplemental NPR proposes additional technical and conforming changes, as well as minor grammatical edits, to § 1101.12 to provide clarity and to align with the statute. For example, the Supplemental NPR proposes to revise § 1101.12(a) and (b) to explain that section 6(b) applies to disclosures of information by state officials who are commissioned officers under section 29(a)(2) of the CPSA, and by any member of the Commission or any employee, agent, or representative, including contractor, of the Commission, in an official capacity. In § 1101.12(h), the Supplemental NPR proposes to remove the reference to ''CPSIA'' and, in its place, insert ''CPSA,'' which the CPSIA amended.

4. Proposed Changes to § 1101.13 (Public Ability To Ascertain Readily Identity of Manufacturer or Private Labeler)

The 2014 NPR proposed deleting from § 1101.13 the last sentence, which states, ''The Commission will provide the advance notice and opportunity to comment if there is a question whether the public could readily ascertain the identity of a manufacturer or private labeler.'' 79 FR 10715. The 2014 NPR explained that this sentence is vague and inconsistent with the reasonable person standard that the Commission adopted in the first sentence of this section. *Id.* Under that standard, if a reasonable person who lacks specialized expertise can readily ascertain the identity of the firm from the information proposed to be disclosed, the Commission will provide such information to the firm for section 6(b) comment. The Supplemental NPR continues to propose deleting the last sentence of § 1101.13, while retaining the reasonable person standard.

The Supplemental NPR proposes to insert two sentences in § 1101.13 to clarify that the following types of information are not within the scope of section 6(b)(1): (1) information about categories of consumer products, provided such information will not permit the public to ascertain readily the identity of the products' manufacturers or private labelers, and (2) information about manufacturers or private labelers, provided such information does not designate or describe a consumer product. Consistent with section 6(b)(6) of the CPSA, the Commission will ensure, pursuant to its established procedures, that information the Commission intends to disclose that reflects on the safety of a class of consumer products or on a manufacturer or private labeler of consumer products, is accurate and not misleading.

The 2014 NPR also proposed a technical change to § 1101.13. 79 FR 10715. The Supplemental NPR continues to propose this change, without revision. In addition, the Supplemental NPR proposes conforming changes to § 1101.13 to align with the statute and minor grammatical edits for clarity.

D. Subpart C—Procedure for Providing Notice and Opportunity To Comment Under Section 6(b)(1)

1. Proposed Changes to § 1101.21 (Form of Notice and Opportunity To Comment)

To increase efficiency and reduce burdens on the Commission and private parties, the 2014 NPR proposed revising the 6(b) Regulation to authorize electronic 6(b) notices, direct Commission staff to transmit notices electronically when possible, and encourage electronic communication back to the Commission. 79 FR 10715. Commenters overwhelmingly supported this proposal. The Supplemental NPR builds upon the 2014 NPR's approach. The Supplemental NPR proposes a new paragraph at § 1101.21(b) that requires, to the extent practicable, electronic transmission to avoid delays inherent in methods such as mail delivery. In response to commenters' questions, the new paragraph also clarifies the procedure if electronic transmission is not practicable or the Commission cannot confirm electronic receipt of the notice. In such instances, the Commission will take appropriate steps to provide notice using other methods, including delivery via U.S. mail or other delivery service.

Section 6(b)(1) of the CPSA states: ''In disclosing any information under [section 6(b)], the Commission may, and upon the request of the manufacturer or private labeler shall, include with the disclosure any comments or other information or a summary thereof submitted by such manufacturer or private labeler to the extent permitted by and subject to the requirements of [section 6].'' 15 U.S.C. 2055(b)(1). Thus, unless a manufacturer or private labeler specifically requests that the Commission disclose the firm's ''comments or other information or a summary thereof'' that is submitted in

response to a section 6(b)(1) notice from CPSC, the Commission is not required to disclose the firm's comments. Current § 1101.21(b)(4), however, requires the Commission to disclose comments even when a manufacturer or private labeler does not request disclosure. The Supplemental NPR proposes to revise this section to conform to the language in section 6(b)(1) and to require that requests for withholding be made in writing to assist Commission staff with processing and tracking such requests. Revised § 1101.21(b)(4) now reads: ''A statement that the Commission may, and upon the written request of the manufacturer or private labeler shall, include with the disclosure any comments or other information or a summary thereof submitted by such manufacturer or private labeler, to the extent permitted by and subject to the requirements of section 6 of the CPSA.''

Current § 1101.21(b) specifies the information that will appear in a section 6(b) notice to a manufacturer or private labeler. This information includes, among other contents, ''[a] statement that a request for comments be withheld from disclosure will be honored.'' The 2014 NPR proposed revising § 1101.21(b)(5). 79 FR 10715–16. The Supplemental NPR instead proposes to delete § 1101.21(b)(5) entirely. A blanket policy of always allowing a manufacturer or private labeler to have its comments withheld, even when such comments are not confidential commercial or trade secret information, and disclosure of the comments is not otherwise prohibited by law, may conflict with the public interest in transparency. Under the Commission's proposed revision at § 1101.24(c), a manufacturer or private labeler must explain its basis for requesting that the Commission exercise its discretion to not disclose the comments.

Current § 1101.21(b)(7) states that firms may request renotification, or the opportunity to comment on subsequent disclosures of ''identical information'' that is ''in the same format.'' The 2014 NPR proposed revisions to this section. 79 FR 10716. As discussed in section II.C.2.b.iii above, the Commission proposes a different approach for subsequent disclosures of information. In connection with this new approach, the Supplemental NPR proposes to revise § 1101.21(b)(7), now redesignated as § 1101.21(b)(6), to provide for delivery to the manufacturer or private labeler of: ''A statement that no further request for comment will be sought by the Commission if the Commission intends to disclose information, not previously disclosed, that in context does not disclose materially more or materially different information about the consumer product than what the Commission previously disclosed in accordance with the law.'' For example, the Commission would not have to provide another 6(b) notice before restating the contents of a CPSC news release that was issued after a notice and comment process under section 6(b).

Current § 1101.21(b)(2) calls for the inclusion in a section 6(b)(1) notice of:

A general description of the manner in which the Commission will disclose the information, including any other relevant information the Commission intends to include with the disclosure. If the Commission advises that the form of disclosure will be by press release, for example, the Commission need not provide further notice to disclose a summary of the press release.

The Supplemental NPR proposes to delete the last sentence of this provision because it concerns renotification, which is addressed in redesignated § 1101.21(b)(6), rather than initial notification. The Supplemental NPR includes this example in redesignated § 1101.21(b)(6).

The 2014 NPR proposed two technical and conforming changes to § 1101.21. 79 FR 10716. The Supplemental NPR continues to propose only the conforming change in § 1101.21(b), redesignated § 1101.21(c). In addition, the Supplemental NPR proposes a technical change in § 1101.21(a) to cross-reference revised § 1101.26, which identifies circumstances when notice and opportunity to comment are not practicable. Finally, the Supplemental NPR proposes changes to conform to the statute and minor grammatical edits throughout § 1101.21 for simplification and clarity. For example, in § 1101.21(b)(6), redesignated § 1101.21(c)(5), the Supplemental NPR proposes to remove ''firm'' and, in its place, add ''manufacturer or private labeler.'' The Supplemental NPR also proposes to redesignate certain paragraphs and sub-paragraphs.

2. Proposed Changes to § 1101.22 (Timing: Request for Time Extensions)

The 2014 NPR proposed inserting a sentence into § 1101.22(a)(1) regarding electronic transmission of the 6(b) notice. 79 FR 10716. The Supplemental NPR proposes to move discussion of electronic transmission to proposed § 1101.21(b).

Currently, the first sentence of § 1101.22(a)(2) states: ''Upon his or her own initiative or upon request, the Freedom of Information Officer may provide a different amount of time for comment, particularly for firms that receive voluminous or complex material.'' The 2014 NPR proposed deleting from § 1101.22(a)(2) the phrase, ''Upon his or her own initiative or,'' because, absent a request from a manufacturer or private labeler, the Freedom of Information Officer generally will not provide a firm with additional time to comment on information proposed for disclosure. 79 FR 10716. The Supplemental NPR proposes additional non-substantive edits to the first sentence of § 1101.22(a)(2). The proposed revised sentence reads: ''The Commission may provide a longer amount of time for comment, particularly for manufacturers and private labelers that receive from the Commission voluminous or complex material to review.''

The 2014 NPR proposed revisions to § 1101.22(b)(2) to clarify when the Commission will disclose information in fewer than 15 calendar days. 79 FR 10716. The Supplemental NPR proposes to delete § 1101.22(b)(2) entirely because this section concerns timing, which is addressed in §§ 1101.22(a)(1) and 1101.23.

Current § 1101.22(b)(1) states: ''If the Commission has not received a response within the time specified and if it has received no request for extension of time, the Commission will analyze the information as provided in subpart D. If no comments are submitted the Commission will not give the further notice provided in section 6(b)(2).'' The Supplemental NPR proposes minor grammatical and clarifying revisions to this section to reflect that an extension request is not a substantive response. Revised § 1101.21(b)(1), redesignated § 1101.21(b), now reads: ''If the Commission has not received a response within the time specified (subject to any extension of time that has been granted under paragraph (c)), the Commission will analyze the information as provided in subpart D and will not give the further notice provided in section 6(b)(2).'' The Commission expects manufacturers and private labelers to submit comments by the deadline indicated in the 6(b) notice or otherwise given. The Commission ordinarily will disregard comments that are not submitted by the stated deadline.

The Supplemental NPR also proposes edits to provide manufacturers and private labelers more specific instructions regarding the Commission's process for requesting an extension of time to comment on information that the Commission proposes to disclose. The Supplemental NPR proposes requiring in § 1101.22(c) that such requests be in writing and submitted at least 48 hours before the deadline to

respond. The Commission believes this is a reasonable approach for processing and tracking any extension requests that staff may receive and for ensuring that proposed disclosures of information are not unnecessarily delayed. In addition, the Supplemental NPR clarifies that if the time for response has been shortened due to a public health and safety finding, no extension will be granted, except upon the Commission's initiative; in other words, extension requests from the party receiving notice will not be entertained in this situation.

The Supplemental NPR proposes to move the sentence in § 1101.22(c)(2) to the end of § 1101.22(c)(1) and to redesignate ''(3)'' as ''(2)''. In addition, in redesignated § 1101.22(c)(2), the Supplemental NPR proposes to remove, ''The Commission will promptly respond to requests for extension of time'' and, in its place, add ''It is the policy of the Commission to respond promptly to requests for extension of time.'' This change reflects that the statute does not require the Commission to respond promptly to an extension request, although the Commission endeavors to do so.

The 2014 NPR proposed two technical changes to § 1101.22. 79 FR 10716. In § 1101.22(a)(2), the Supplemental NPR continues to propose removing ''§ 1101.24'' and, in its place, adding ''§ 1101.23.'' The 2014 NPR's proposed revision to § 1101.22(b)(1) is no longer necessary in light of other revisions to this sentence.

The Supplemental NPR proposes additional conforming changes to align with the statute and minor grammatical edits for clarity. For example, the Supplemental NPR proposes to remove ''firm'' and, in its place, add ''manufacturer or private labeler'' to conform to the statute and to provide clarity about the types of entities that are subject to section 6(b)(1) of the CPSA. The Supplemental NPR proposes this revision at appropriate places throughout the 6(b) Regulation. The Supplemental NPR also proposes to revise the heading of § 1101.22 so that it reads: ''Time for comment and requests for extension of time''.

3. Proposed Changes to § 1101.23 (Providing Less Than 15 Days Notice Before Disclosing Information)

Current § 1101.23(c), titled ''Notice of finding,'' states that the Commission will provide the manufacturer or private labeler with notice of a public health and safety finding. The 2014 NPR proposed revisions to § 1101.23(c) to direct the Commission to provide such notice electronically. 79 FR 10716. The Supplemental NPR proposes to delete § 1101.23(c) entirely, because section 6(b) does not require the Commission to provide the manufacturer or private labeler direct notice of the finding. Rather, when the Commission finds that the public health and safety requires a lesser period of notice, section 6(b)(1) requires the Commission to publish such finding. In addition, section 6(b)(2) requires the Commission to notify the manufacturer or private labeler of the date set for public disclosure.

The Supplemental NPR proposes to revise the heading in § 1101.23(a) to include instances where the firm notifies the Commission that the firm has no comment. This provision currently appears in the text of § 1101.23(a).

In addition, the Supplemental NPR proposes to insert the following sentence into § 1101.23(b): ''The Commission will publish the finding in the disclosure itself or elsewhere.'' The CPSIA amendments in 2008 removed the previous requirement in section 6(b)(1) of the CPSA that the Commission publish its health and safety finding in the **Federal Register**. The House Report accompanying the CPSIA bill explained this revision as follows:

> [S]ection 205 further amends section 6(b)(1) to allow the Commission, in the case of a public health or safety hazard posed by a product, to simply publish its finding (presumably on the Commission's website) before disclosing the relevant information to the public. Currently, section 6(b)(1) requires the Commission to publish its finding in the **Federal Register**, which can needlessly delay the process for as long as five additional days.

H.R. Rep. No. 110–501, Consumer Product Safety Modernization Act (Dec. 19, 2007). Based upon this statutory revision and the accompanying legislative history, the Commission concludes that Congress intended the Commission to publish the finding quickly, such as in the press release or other public disclosure itself. This proposed revision, however, does not impact the requirement under section 6(b)(1) of the CPSA that the Commission, to the extent practicable, provide the manufacturer or private labeler with notice and an opportunity to comment on the information prior to disclosure.

The Supplemental NPR proposes additional conforming changes to align with the statute and minor grammatical edits for clarity throughout § 1101.23. For example, the Supplemental NPR proposes to replace ''firm'' with ''manufacturer or private labeler''; insert ''calendar'' between ''15'' and ''days''; and insert ''consumer'' between ''the'' and ''product''.

4. Proposed Changes to § 1101.24 (Scope of Comments Commission Seeks)

Section 6(b)(1) of the CPSA states: ''In disclosing any information under [section 6(b)], the Commission may, and upon the request of the manufacturer or private labeler shall, include with the disclosure any comments or other information or a summary thereof submitted by such manufacturer or private labeler to the extent permitted by and subject to the requirements of [section 6].'' 15 U.S.C. 2055(b)(1). The 2014 NPR proposed revising § 1101.24(c) to require that a manufacturer or private labeler provide a rationale to support withholding the firm's comments and an explanation of why disclosure of the comments is not necessary to assure that the disclosure of the information that is the subject of the comments is fair in the circumstances. 79 FR 10716–17. The Commission proposed this revision ''[t]o obtain more substantive and useful information from firms who object to disclosure of comments.'' 79 FR 10718. The 2014 NPR explained that ''[c]onclusory assertions that comments be withheld without a rationale will not be sufficient to withhold comments'' and that ''a firm's comment that it has no objection to disclosure, without any additional comments, will not be sufficient to justify withholding.'' *Id.*

The Supplemental NPR revises this approach and proposes that a manufacturer or private labeler must provide a basis if it requests that the comments not be disclosed. For example, if a firm submits comments on what it believes is inaccurate information in the Commission's planned disclosure, and the Commission agrees with the comments and revises the proposed statement, the firm might contend that releasing comments referencing the inaccurate information in the proposed disclosure would not be a reasonable step to assure accuracy or fairness under the 6(b) requirements.

In addition, the Supplemental NPR proposes to revise the last sentence of § 1101.24(c) to clarify that if a manufacturer or private labeler objects to the disclosure of a portion of its comments, the firm must specifically identify that portion. Incorporating these revisions, along with conforming and grammatical edits, the revised proposed § 1101.24(c) now reads:

> *Requests for nondisclosure of comments.* If a manufacturer or private labeler objects to the disclosure of its comments or a portion thereof, it must notify the Commission at the time the manufacturer or private labeler submits its comments and provide the basis

for its request. If the manufacturer or private labeler objects to the disclosure of only a portion of its comments, the firm must identify with specificity those portions that it requests be withheld.

In response to the 2014 NPR, commenters expressed concern with the Commission's treatment of trade secret or privileged or confidential commercial or financial information that may appear in a firm's comments. The proposed revision in no way affects the Commission's treatment of such information. The Commission will maintain the protections on disclosure of trade secret or privileged or confidential commercial or financial information, as delineated in the CPSA, the FOIA, and our corresponding regulations, and in applicable case law. Firms should consult the Commission's FOIA regulation at 16 CFR 1015.18, which specifies the information a firm must provide with any request that the Commission withhold trade secret or privileged or confidential commercial or financial information.

The 2014 NPR proposed two technical changes to § 1101.24(b). 79 FR 10717. The Supplemental NPR no longer proposes the change to the first sentence of § 1101.24(b); instead, the Supplemental NPR proposes revisions to conform to the language in section 6(a)(2) of the CPSA. The Supplemental NPR continues to propose the change to the second sentence, along with other clarifying edits to the sentence. In addition, throughout § 1101.24, the Supplemental NPR proposes conforming changes to align with the statute and minor grammatical edits for simplification and clarity. For example, in § 1101.24(a), the Supplemental NPR proposes to delete ''undocumented'' and, in its place, add ''non-specific''.

5. Proposed Changes to § 1101.25 (Notice of Intent To Disclose)

The 2014 NPR proposed adding the following sentence to the end of § 1101.25(c): ''If written notice is provided, the Commission, whenever possible, will transmit such notice electronically.'' 79 FR 10717. The Supplemental NPR continues to propose this revision, with minor grammatical edits.

In § 1101.25(a), the Supplemental NPR proposes non-substantive revisions to clarify the time at which the Commission may disclose the information. In addition, the Supplemental NPR proposes to remove the last sentence in § 1101.25(a), which states: ''The notice of intent to disclose will include an explanation of the reason for the Commission's decision [and] copies of any additional materials, such as explanatory statements and letters to FOIA requesters, which were not previously sent to the firm.'' Section 6(b)(2) of the CPSA only requires that the Commission ''notify the manufacturer or private labeler that the Commission intends to disclose [the information] at a date not less than 5 days after the date of the receipt of notification.'' For FOIA requests, however, it is the Commission's current practice to include, with the section 6(b)(2) notice, copies of the final package of materials that the Commission intends to disclose to the FOIA requester.

The Supplemental NPR proposes to delete § 1101.25(b) entirely, because the information in this paragraph appears in § 1101.23(b). In connection with this revision, the Supplemental NPR redesignates paragraph (c) as (b).

The 2014 NPR proposed technical changes to § 1101.25. 79 FR 10717. The Supplemental NPR continues to propose some of these changes. In addition, the Supplemental NPR proposes minor grammatical edits and conforming changes to align § 1101.23 with the statute. For example, in redesignated § 1101.25(b), the Supplemental NPR proposes to delete, ''depending on the immediacy of the need for quick action,'' because a health and safety finding itself constitutes a Commission determination regarding immediacy.

6. Proposed Changes to § 1101.26 (Circumstances When the Commission Does Not Provide Notice and Opportunity To Comment)

The 2014 NPR did not propose any changes to this section.

Section 6(b)(1) of the CPSA requires that, ''to the extent practicable,'' the Commission must provide manufacturers and private labelers notice and an opportunity to comment before disclosing information about a consumer product from which the public can ascertain readily the manufacturer's or private labeler's identity. Current § 1101.26(b) offers examples of circumstances in which notice and opportunity to comment is not practicable. The Supplemental NPR proposes to add to this list the following:

- When the Commission has been unable, after a diligent search, to obtain contact information for the manufacturer or private labeler of the consumer product to which the information pertains.
- When an extraordinary circumstance necessitates the immediate disclosure of information to protect the public health and safety while the Commission simultaneously pursues notification of the manufacturer or private labeler.

Regarding the first example, Commission staff conducts thorough searches in internal databases and other sources to locate contact information for manufacturers and private labelers. There have been occasions when staff was unable to find contact information for a particular firm after a diligent search, and thus, the Commission could not provide the requisite notice.

Regarding the second example, there may be emergency situations where the Commission must warn the public immediately about a particular hazard or risk while simultaneously pursuing notification to the manufacturer or private labeler. For example, on a holiday weekend the Commission might become aware of a serious hazard involving a new consumer product associated with the holiday, but the Commission's attempts to contact the manufacturer go unanswered. In that situation, the Commission might immediately notify the public of the hazard while awaiting a response from the firm. Importantly, consistent with the requirements in section 6(b)(1) of the CPSA, the Commission would take reasonable steps to assure that the information is accurate and that disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the Acts.

The Supplemental NPR also proposes conforming changes to align with the statute and minor grammatical edits for clarity and simplification throughout § 1101.26. For example, the Supplemental NPR proposes to revise the sentence in § 1101.26(b) to state: ''Circumstances when notice and opportunity to comment is not practicable include, but are not necessarily limited to, the following . . .'' In § 1101.26(b)(1), the Supplemental NPR proposes to remove ''company'' and, in its place, add ''manufacturer or private labeler of any consumer product''.

E. Subpart D—Reasonable Steps Commission Will Take To Assure Information It Discloses Is Accurate, and That Disclosure Is Fair in the Circumstances and Reasonably Related To Effectuating the Purposes of the Acts It Administers

1. Proposed Changes to Subpart D Heading

The Supplemental NPR proposes minor edits to the heading of Subpart D for clarity and consistency. For example, the Supplemental NPR proposes to remove ''Assure Information It Discloses Is Accurate'' and, in its

place, add ''Assure Public Disclosure of Information Is Accurate.''

2. Proposed Changes to § 1101.31 (General Requirements)

Current § 1101.31(b) states:

Inclusion of comments. In disclosing any information under this section, the Commission will include any comments or other information submitted by the manufacturer or private labeler unless the manufacturer or private labeler at the time it submits its section 6(b) comments specifically requests the Commission not to include the comments or to include only a designated portion of the comments and disclosure of the comments on such a designated portion is not necessary to assure that the disclosure of the information which is the subject of the comments is fair in the circumstances.

The 2014 NPR proposed revisions to this section. 79 FR 10717. The Supplemental NPR proposes to revise § 1101.31(b) to conform to the statute and to require all requests regarding the disclosure of a manufacturer's or private labeler's comments to be in writing. Revised § 1101.31(b), redesignated § 1101.31(a), now reads: ''*Inclusion of comments.* In disclosing any information under this section, the Commission may, and upon the written request of the manufacturer or private labeler shall, include any comments or other information or a summary thereof submitted by the manufacturer or private labeler, to the extent permitted by and subject to the requirements of section 6 of the CPSA.''

Current § 1101.31(d) states:

Information previously disclosed. If the Commission has previously disclosed, in accordance with section 6(b)(1), the identical information it intends to disclose again in the same format, it will not customarily take any additional steps to assure accuracy unless the Commission has some reason to question its accuracy or unless the firm, in its comments responding to the Commission's initial section 6(b) notice, specifically requests the opportunity to comment on subsequent disclosures, or unless the Commission determines that sufficient time has passed to warrant seeking section 6(b) comment again. Before disclosing the information, the Commission will again review the information to see if accuracy is called into question and will further look to whether disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the Acts the Commission administers.

The 2014 NPR proposed deleting substantially all of § 1101.31(d). 79 FR 10718.

Upon further consideration, the Commission now proposes a more straightforward approach for releasing information that does not disclose materially more or materially different information than what was previously disclosed. Proposed § 1101.31(d), redesignated § 1101.31(c), now reads: ''*Disclosing materially more or materially different information.* If the Commission intends to disclose information, not previously disclosed, that in context does not disclose materially more or materially different information about the consumer product than what the Commission previously disclosed in accordance with the law, the Commission is not obligated to take any additional steps to assure accuracy unless the Commission has reason to question the accuracy of the information.'' This provision reflects that, in the situation described, the notice and comment process has already occurred for the substance of the proposed disclosure, and repeating that process would not advance the purposes of section 6(b).

The Supplemental NPR also proposes to delete § 1101.31(a), which states that the Commission will attempt to make its decision on disclosure ''as soon as is reasonably possible after expiration of the statutory fifteen day moratorium on disclosure.'' There is no statutory requirement that the Commission disclose information within a certain time after the 15-day period has expired, assuming that the surrounding circumstances have not significantly changed.

In § 1101.31(c), now redesignated § 1101.31(b), the Supplemental NPR proposes to delete the sentence: ''Inclusion of an explanatory statement is in addition to, and not a substitute for, taking reasonable steps to assure the accuracy of information.'' The Supplemental NPR proposes instead to include a reference to an explanatory statement as a new paragraph (b) in revised § 1101.32 (Reasonable steps to assure disclosure of information is accurate). The Supplemental NPR also proposes other revisions to conform to the statute and clarify that the Commission is not required under section 6(b)(1) of the CPSA to provide an explanatory statement with information that it discloses to the public. These revisions include: (1) removing ''Where appropriate''; (2) removing ''will'' and, in its place, adding ''may''; and (3) removing ''To the extent practicable''. The Supplemental NPR also proposes to remove ''released'' and, in its place, add ''disclosed'' to conform to the statute.

The 2014 NPR proposed two technical and conforming changes to § 1101.31. 79 FR 10718–19. These changes have been superseded by the Supplemental NPR's proposed revisions.

3. Proposed Changes to § 1101.32 (Reasonable Steps To Assure Information Is Accurate)

The 2014 NPR proposed technical changes to § 1101.32. 79 FR 10719. The Supplemental NPR continues to propose these changes, without revision.

Section 6(b)(1) of the CPSA requires the Commission to take reasonable steps to assure, prior to disclosing information, that such information is accurate. Section 1101.32(a) of the 6(b) Regulation specifies the types of actions that the Commission considers to be reasonable steps to assure the accuracy of information that the Commission proposes to disclose to the public. The Supplemental NPR proposes to add the following as a reasonable step to assure the accuracy of the information: ''(3) The Commission staff relies on a statement made under oath, or a similar statement enforceable under penalty of perjury (*e.g.,* 28 U.S.C. 1746), that yields or corroborates the information to be disclosed.'' The making of a statement under penalty of perjury, such as in a sworn affidavit or declaration provided under 28 U.S.C. 1746, is generally accepted as sufficient indicia of reliability and appropriate for the Commission to similarly credit. In connection with this proposed addition, the Supplemental NPR proposes to redesignate current paragraph ''(3)'' as paragraph ''(4)''.

Current § 1101.32(a)(1) provides another action that the Commission considers to be a reasonable step: ''The Commission staff or a qualified person or entity outside the Commission . . . conducts an investigation or an inspection which yields or corroborates the product information to be disclosed.'' The Supplemental NPR proposes to delete ''or an inspection'' from this sentence because ''investigation'' is a broad term under the Commission's regulations that encompasses ''inspection.'' *See* 16 CFR 1118.1(a)(4) (''The term investigation includes, but is not limited to, inspections . . .'').

The Supplemental NPR proposes to add a new paragraph (b) explaining that in addition to the reasonable steps specified in § 1101.32(a), the Commission may include the explanatory statement referenced in proposed § 1101.31(b) to assure the accuracy of the information proposed for disclosure. In connection with this proposed revision, the Supplemental NPR proposes to redesignate current paragraph (b) as paragraph (c).

The Supplemental NPR also proposes conforming changes to align with the statute and other non-substantive

revisions for simplification throughout § 1101.32. For example, the Supplemental NPR proposes to revise § 1101.32(a)(3), redesignated as § 1101.32(a)(4), to state: ''The person who submitted the information to the Commission confirms the information as accurate to the best of the submitter's knowledge and belief, provided that . . . .'' In § 1101.32(b)(4), the Supplemental NPR proposes to delete the sentence, ''Specific comments will be given more weight than general comments.'' The Supplemental NPR also proposes a technical change to redesignated § 1101.32(c)(1) and minor grammatical edits throughout § 1101.32.

4. Proposed Changes to § 1101.33 (Reasonable Steps To Assure Information Release Is Fair in the Circumstances)

Current § 1101.33(a) specifies the types of actions that constitute reasonable steps to assure disclosure of information to the public is fair in the circumstances. The Supplemental NPR proposes several revisions to § 1101.33(a).

First, in § 1101.33(a)(1), the Supplemental NPR revises the approach proposed in the 2014 NPR regarding the disclosure of a firm's comments. The Supplemental NPR proposes that a manufacturer or private labeler must provide a basis, as opposed to a legal rationale, if the firm requests that its comments not be disclosed. The Supplemental NPR also proposes revisions that conform § 1101.33(a)(1) to the statute and require requests regarding the disclosure of a manufacturer's or private labeler's comments to be in writing.

Second, in § 1101.33(a)(2), the Supplemental NPR proposes revisions to conform to the statute and to clarify that the Commission *may,* but is not required to, (1) accompany the disclosure with an explanatory statement that makes the nature of the information disclosed clear to the public and (2) assure disclosure is fair in the circumstances by disclosing other relevant information in the Commission's possession, subject to the requirements of section 6(b)(1) and other requirements of law.

Third, the Supplemental NPR proposes to delete § 1101.33(a)(3), which states: ''The Commission will limit the form of disclosure to that which it considers appropriate in the circumstances. For example, the Commission may determine it is not appropriate to issue a nationwide press release in a particular situation and rather will issue a press release directed at certain localities, regions, or user populations.'' The Commission believes that this section is obsolete given the general absence of geographic restrictions when information is posted on the internet.

Finally, the Supplemental NPR proposes to delete, as unnecessary, § 1101.33(a)(4), which states: ''The Commission may delay disclosure of information in some circumstances. For example, the Commission may elect to postpone an information release until an investigation, analysis or test of a product is complete, rather than releasing information piecemeal.'' There is no need for notice under section 6(b) of the CPSA if the Commission decides to delay disclosure of the information.

Current § 1101.33(b) provides examples of disclosures that generally would not be fair in the circumstances. The Supplemental NPR proposes two substantive revisions to § 1101.33(b).

First, consistent with the 2014 NPR, the Supplemental NPR continues to propose deleting § 1101.33(b)(3), which identifies as inappropriate:

> Disclosure of the work-product of attorneys employed by a firm and information subject to an attorney/client privilege, if the Commission has obtained the information from the client or the attorney, the attorney or client advises the Commission of the confidential nature of the information at the time it is submitted to the Commission, and the information has been maintained in confidence by the client and the attorney.

As explained in the 2014 NPR, in general, we believe that firms waive these protections when they intentionally submit to CPSC information that is attorney work-product or subject to the attorney/client privilege. 79 FR 10719. The Commission does not expect, nor do we want, firms to provide legally privileged information to the Commission. However, if a firm inadvertently submits such information without intending a waiver, the Commission will treat the information in accordance with applicable authorities governing inadvertent disclosure. Moreover, if the submitted information contains trade secret or privileged or confidential commercial or financial information, the firm may request confidentiality of the information in accordance with the Commission's FOIA regulation at 16 CFR 1015.18.

Second, the Supplemental NPR proposes to revise § 1101.33(b)(4), which states: ''Disclosure of a firm's comments (or a portion thereof) submitted under section 6(b)(1) over the firm's objection.'' The 2014 NPR proposed revising § 1101.33(b)(4) to require a rationale for why the comments should not be disclosed. 79 FR 10719–20. Instead of requiring a legal rationale such as a statute or regulation, the Supplemental NPR recognizes that the Commission generally has broad discretion whether to grant a request for non-disclosure of such comments, and accordingly proposes that the manufacturer or private labeler must simply provide some basis for why it believes the Commission should decide against disclosing the comments. The Supplemental NPR also proposes revisions to conform to the statute and minor edits for clarity.

The Supplemental NPR proposes conforming changes to align with the statute and minor grammatical edits throughout § 1101.33. In addition, the Supplemental NPR proposes to redesignate § 1101.33(b)(4) as (b)(3) to reflect the proposed deletion of § 1101.33(b)(3).

5. Proposed Changes to § 1101.34 (Reasonable Steps To Assure Information Release Is ''Reasonably Related To Effectuating the Purposes of the Acts'' the Commission Administers)

The 2014 NPR proposed technical changes to § 1101.34(a)(2). 79 FR 10720. The Supplemental NPR no longer proposes these changes.

As discussed in section II.B.1 above, section 6(b)(1) of the CPSA applies to the Commission's ''public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith.'' 15 U.S.C. 2055(b)(1). Section 6(d)(1) of the CPSA defines ''Act'' as the CPSA, FFA, PPPA, and FHSA. 15 U.S.C. 2055(d)(1). The Supplemental NPR proposes conforming revisions to align § 1101.34(a) with section 6(b)(1) and (d)(1) of the CPSA by removing references to acts other than the CPSA, FHSA, FFA, and PPPA.

Section 6(b)(1) requires the Commission to take reasonable steps to assure that ''disclosure is . . . reasonably related to effectuating the purposes of'' the CPSA, FFA, PPPA, and FHSA. 15 U.S.C. 2055(b)(1). Current § 1101.34(a)(3), which addresses FOIA requests, requires the Commission to determine whether disclosure of information in response to a FOIA request is reasonably related to effectuating one or more of the purposes of the acts administered by the Commission and that, in the event of a close question on this issue, the Commission will defer to the purposes of the FOIA. The FOIA is not one of the enumerated acts in section 6(d)(1) of the CPSA, and thus, the Commission is not required to determine whether disclosure of the information would be

reasonably related to effectuating the purposes of the FOIA. Therefore, the Supplemental NPR proposes to delete § 1101.34(a)(3) entirely. However, this proposed revision does not affect the Commission's obligation, as determined by the U.S. Supreme Court in *CPSC* v. *GTE Sylvania, Inc.,* to comply with the requirements of section 6(b) of the CPSA before disclosing any information in response to a FOIA request. 447 U.S. 102 (1980).

The Supplemental NPR also proposes conforming changes and non-substantive revisions for simplification and clarity throughout § 1101.34. For example, in the heading for § 1101.34, the Supplemental NPR proposes to remove ''release'' and, in its place, add ''disclosure''; and in § 1101.34(a)(2), the Supplemental NPR proposes to insert ''consumer'' between ''concerning'' and ''products.''

F. Subpart E—Statutory Exceptions of Section 6(b)(4)

1. Proposed Changes to § 1101.41 (Generally)

The 2014 NPR proposed technical changes to § 1101.41. 79 FR 10720. The Supplemental NPR no longer proposes those revisions.

The Supplemental NPR instead proposes conforming revisions to align with the statute and non-substantive revisions for clarity and simplification throughout § 1101.41. For example, the Supplemental NPR proposes to insert ''Acts'' to clarify that these exceptions apply specifically to the CPSA, FHSA. FFA, and PPPA. The Supplemental NPR also proposes to delete § 1101.41(b), which states that the Commission will apply the section 6(b)(4) exceptions to ''the transferred acts.'' Section 1101.41(b) is duplicative and repeats the information already contained in revised § 1101.41, as well as in revised § 1101.1 (Scope). In addition, the Supplemental NPR proposes to reformat the information in paragraphs (a)(3) and (a)(4) as a combined list under paragraph (3). Proposed § 1101.41(3) now states that the statutory exceptions in section 6(b)(4) apply to (among other disclosures) ''[i]nformation in the course of or concerning: (i) a rulemaking proceeding under the Acts; (ii) an adjudicatory proceeding under the Acts; or (iii) any other administrative or judicial proceeding under the Acts.'' The Supplemental NPR also proposes to remove paragraph designation and subheading ''(a) Scope'' to reflect the proposed removal of paragraph (b).

2. Proposed Changes to § 1101.42 (Imminent Hazard Exception)

Current § 1101.42(b) states:

> *Scope of exception.* This exception applies once the Commission has filed an action under section 12 of the CPSA (15 U.S.C. 2061), in a United States district court. Once the exception applies, information may be disclosed to the public while the proceeding is pending without following the requirements of section 6(b)(1) if the information concerns or relates to the product alleged to be imminently hazardous. Upon termination of the proceeding, information filed with the court or otherwise made public is not subject to section 6(b). Information in the Commission's possession which has not been made public is subject to section 6(b).

The 2014 NPR proposed the following revisions to § 1101.42(b):

- In the second sentence, remove: ''while the proceeding is pending.''
- Remove the third and fourth sentences.

79 FR 10720. The 2014 NPR explained the Commission's belief that, upon filing a section 12 action, information may be disclosed to the public during and after the proceeding, even if the information was not filed with the court or otherwise made public. *Id.* The Supplemental NPR continues to propose these revisions, without change.

In addition, the Supplemental NPR proposes conforming changes to align with the statute and minor grammatical edits.

3. Proposed Changes to § 1101.43 (Section 6(b)(4)(A) Exception)

The 2014 NPR did not propose any changes to § 1101.43.

The Supplemental NPR proposes to delete the first sentence in paragraph (b) because it repeats the information that appears in paragraph (a) and to combine paragraphs (a) and (b). In addition, the Supplemental NPR proposes conforming changes to align with the statute and minor grammatical edits.

''Reasonable cause to believe'' is not a defined phrase in either section 6(b)(4)(A) of the CPSA or § 1101.43. The Commission believes that reasonable cause exists when the belief is supported by existing laws and regulations and is based on factual conclusions that have evidentiary support. *Cf.* Fed. R. Civ. Proc. 11 (providing standard for filing pleadings and motions with a Federal court). Thus, for example, the Commission would have ''reasonable cause to believe'' a consumer product is in violation if Commission testing indicates that a toy contains excessive levels of lead, Commission staff confirms that a toy lacks the requisite General Conformity Certification, or Commission staff determines that a manufacturer is distributing ATVs without the requisite ATV Action Plan. The Commission will notify a manufacturer or private labeler orally or in writing if the Commission has reasonable cause to believe a consumer product is in violation of a consumer product safety rule or provision of the CPSA or similar rule or provision of any other act enforced by the Commission.

4. Proposed Changes to § 1101.44 (Rulemaking Proceeding Exception)

The 2014 NPR did not propose any changes to § 1101.44.

Section 6(b)(4) of the CPSA states that the provisions of section 6(b)(1)–(3) do not apply to the Commission's ''public disclosure of . . . (B) information in the course of or concerning a rulemaking proceeding.'' 15 U.S.C. 2055(b)(4)(B). Current § 1101.44(d) interprets the term ''concerning'' as follows:

> The phrase ''concerning'' refers to information about the proceeding itself both after the proceeding has begun and indefinitely thereafter. Therefore, the Commission may publicly disclose information that describes the substance, process and outcome of the proceeding. By issuing opinions and public statements, the Commissioners, and the presiding official, who act as decisionmakers, may also publicly explain their individual votes and any decision rendered.

The Commission believes that this explanation restricts the type of information that falls under the rulemaking proceeding exception, beyond what Congress intended. ''Concerning'' is a broad term that can be understood as synonymous with ''relating to.'' *See United States* v. *Olea-Monarez,* 908 F.3d 636, 640 (10th Cir. 2018) ('''Concerning' is a neutral term meaning 'relating to' '') (citing Black's Law Dictionary (5th ed. 1979)); *Bloomberg L.P.* v. *U.S. Food & Drug Admin.,* 500 F.Supp.2d 371, 377 (S.D.N.Y. 2007) (''Its definition is 'relating to; to be about; to bear on.' '') (citing Merriam-Webster Online Dictionary, *http://www.merriam-webster.com* (last visited Aug. 13, 2007)). To reflect the common understanding of this term, the Supplemental NPR proposes to insert (1) ''or addressing'' after ''information about'' in the first sentence of § 1101.44(d), and (2) ''or relates to'' after ''describes'' in the second sentence of § 1101.44(d). Incorporating these revisions, as well as minor grammatical edits for simplification, revised § 1101.44(d) now reads:

The phrase ''concerning'' refers to information about or addressing the proceeding both after the proceeding has begun and indefinitely thereafter. Therefore, the Commission may at any time publicly disclose information that describes or relates to the substance, process, or outcome of the proceeding. For example, Commissioners may publicly explain their individual votes and any decision rendered by issuing written opinions and making public statements.

The Supplemental NPR also proposes conforming changes to align with the statute and minor grammatical edits.

5. Proposed Changes to § 1101.45 (Adjudicatory Proceeding Exception)

The 2014 NPR proposed a technical correction to § 1101.45(b). 79 FR 10720. This change has been superseded by the Supplemental NPR's proposed revisions.

Section 6(b)(4)(B) of the CPSA states that the provisions of section 6(b)(1)–(3) do not apply to the Commission's ''public disclosure of . . . (B) information in the course of or concerning . . . an adjudicatory proceeding (which shall commence upon the issuance of a complaint).'' 15 U.S.C. 2055(b)(4)(B). Current § 1101.45(d) interprets the term ''concerning'' as follows:

The phrase ''concerning'' refers to information about the administrative adjudication itself, both once it begins and indefinitely thereafter. Therefore, the Commission may publicly disclose information that describes the substance, process and outcome of the proceeding including, for example, the effectiveness of any corrective action such as information on the number of products corrected as a result of a remedial action. By issuing opinions and public statements, the Commissioners and the presiding official, who act as decisionmakers, may publicly explain their individual votes and any decision rendered.

The Supplemental NPR proposes to revise the discussion of ''concerning'' for the reasons stated in section II.F.4 above. Incorporating these revisions, as well as minor grammatical edits for simplification, revised § 1101.45(d) now reads:

The phrase ''concerning'' refers to information about or addressing the administrative adjudication, both once it begins and indefinitely thereafter. Therefore, the Commission may at any time publicly disclose information that describes or relates to the substance, process, or outcome of the proceeding. For example, (i) Commissioners may publicly explain their individual votes and any decision rendered by issuing written opinions and making public statements and (ii) the Commission may disclose information regarding the effectiveness of any corrective action, such as information on the number of products corrected as a result of a remedial action.

The Supplemental NPR also proposes conforming changes to align § 1101.45 with the statute and minor grammatical edits for clarity. For example, in § 1101.45(a), the Supplemental NPR proposes to insert ''(which shall commence upon the issuance of a complaint)'' after ''adjudicatory proceeding'' to conform to the language in the statute. In § 1101.45(b), the Supplemental NPR proposes non-substantive edits for simplification. These edits reflect that the exception applies once the Commission files a complaint under specific provisions of the CPSA, FHSA, FFA, or PPPA.

6. Proposed Changes to § 1101.46 (Other Administrative or Judicial Proceeding Exception)

The 2014 NPR proposed removing ''Secretary'' and, in its place, adding ''Secretariat'' in § 1101.46(b)(7). 79 FR 10720. The Supplemental NPR no longer proposes this revision, which would be inconsistent with the Commission's current organization.

The Supplemental NPR proposes to delete as unnecessary the last sentence in § 1101.46(b)(1), which states: ''Information subject to the exception for petition proceedings is the petition itself and the supporting documentation, and information subsequently compiled by the staff and incorporated or referenced in the staff briefing papers for and recommendation to the Commission.'' The other examples listed in § 1101.46(b) do not specify the types of information that are subject to this exception, and the language proposed for deletion could be excessively restrictive in actual practice.

The Supplemental NPR proposes conforming changes to align § 1101.46 with the statute and non-substantive edits for clarity. For example, in § 1101.46(a), the Supplemental NPR proposes to insert ''–(3)'' after ''6(b)(1)''. In § 1101.46(b), the Supplemental NPR proposes to insert ''without limitation'' after ''Proceedings within this exception include,'' to clarify that the list appearing at § 1101.46(b) is not exhaustive and could include other administrative or judicial proceedings as authorized under section 6(b)(4)(B) of the CPSA. In addition, the Supplemental NPR proposes to revise § 1101.46(c) to state: ''The phrase 'in the course of or concerning' shall be interpreted consistent with § 1101.44(c) and (d) or § 1101.45(c) and (d), as applicable.''

G. Subpart F—Retraction

1. Proposed Changes to § 1101.51 (Commission Interpretation)

The 2014 NPR proposed technical corrections to § 1101.51(b). 79 FR 10720. These changes have been superseded by the Supplemental NPR's proposal to delete the first two sentences of § 1101.51(b) because these sentences repeat the information contained in § 1101.51(a). The Supplemental NPR also proposes changes to § 1101.51(b) to conform to the language in section 6(b) of the CPSA and minor grammatical edits for clarity.

2. Proposed Changes to § 1101.52 (Procedure for Retraction)

Section 6(b)(7) of the CPSA states:

If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product or class of consumer products, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner equivalent to that in which such disclosure was made, take reasonable steps to publish a retraction of such inaccurate of misleading information.

15 U.S.C. 2055(b)(7). While section 6(b)(7) of the CPSA identifies four categories of requesters (*i.e.,* manufacturers, private labelers, distributors, and retailers), current § 1101.52 authorizes an ''any other person'' category as an additional group that can request retraction. The Supplemental NPR proposes to align the retraction procedure in § 1101.52 with the interested classes referenced in the statute, and delete from this section all references to ''any other person.''

Relatedly, in § 1101.52(c), which lists the information that must appear in a request for retraction, the Supplemental NPR proposes to add as paragraph (1): ''The identity and relationship (*i.e.,* manufacturer, private labeler, distributor, or retailer) of the requester.'' In connection with this proposed revision, the Supplemental NPR proposes paragraph redesignations throughout § 1101.52(c).

In § 1101.52(d), the Supplemental NPR proposes to remove the language: ''If the Commission finds that fuller disclosure is necessary, it will publish a retraction in the manner it determines appropriate under the circumstances'' and, in its place, add:

If publication in a manner equivalent to that in which the disclosure was made is not practicable or could result in further disclosure of the information, the Commission will publish a retraction or take other action in a manner that the

Commission determines appropriate under the circumstances and consistent with the purposes of section 6(b)(7).

This proposed revision makes the rule flexible enough to address situations such as, for example, a public disclosure of inaccurate information by Commission staff during a phone conversation or in an email, where publication of the correction would result in further disclosure of the inaccurate or misleading information. In these instances, the Commission will take other action that the Commission deems appropriate under the circumstances to correct the prior release.

The 2014 NPR proposed technical and conforming changes to § 1101.52. 79 FR 10720. The Supplemental NPR continues to propose some of these changes, along with additional conforming changes to align with the statute, particularly section 6(b)(7) of the CPSA, and minor grammatical edits for clarity. For example, the Supplemental NPR proposes to revise the paragraph heading for § 1101.52(a) to reflect that retraction can occur upon the Commission's own initiative or upon request. In § 1101.52(b), the Supplemental NPR proposes revisions to the contact information where a request for retraction should be sent. In addition, in redesignated § 1101.52(c)(1), which discusses the information that a requester must submit in connection with a retraction request, the Supplemental NPR proposes to update the rule by replacing the language: ''A photocopy of the disclosure should accompany the request,'' with ''A reproduction of the disclosure (*e.g.,* image, audio or video file, copy of document) should accompany the request, if practicable,'' to reflect advancements in technology that have occurred since 1983.

H. Subpart G—Information Submitted Pursuant to Section 15(b) of the CPSA

1. Proposed Changes to § 1101.61 (Generally)

The 2014 NPR proposed a technical correction to § 1101.61(b)(3). 79 FR 10721. These changes have been superseded by the Supplemental NPR's proposed revisions.

Section 6(b)(5) of the CPSA prohibits the Commission from ''disclos[ing] to the public information submitted pursuant to section 15(b) respecting a consumer product'' unless certain conditions apply. 15 U.S.C. 2055(b)(5). Current § 1101.61(b) states:

Criteria for disclosure. Under section 6(b)(5) the Commission shall not disclose to the public information which is identified as being submitted pursuant to section 15(b) or which is treated by the Commission staff as being submitted pursuant to section 15(b). Section 6(b)(5) also applies to information voluntarily submitted after a firm's initial report to assist the Commission in its evaluation of the section 15 report. However, the Commission may disclose information submitted pursuant to section 15(b) in accordance with section 6(b)(1)–(3) if . . .

The Supplemental NPR proposes several revisions to § 1101.61(b). First, the Supplemental NPR proposes to delete the phrase, ''or which is treated by the Commission staff as being submitted pursuant to section 15(b).'' As explained in the 1983 final rule, the Commission inserted this phrase in response to comments that Commission staff sometimes treated reports as being filed under section 15(b), even when the submitting firm disclaimed any legal obligation to report. 48 FR 57428. The Commission will continue to apply section 6(b)(5)'s additional information disclosure limitations when a firm indicates that it is making a submission pursuant to section 15(b) and 16 CFR 1115.13, even if, as authorized under 16 CFR 1115.12(a), the submitting firm refuses to admit, or specifically denies, in its report to the Commission that the information reasonably supports the conclusion that the submitting firm's consumer product is noncomplying, contains a defect which could create a substantial product hazard, or creates an unreasonable risk of serious injury or death. Absent exceptional circumstances where a filing clearly does not come within the requirements of section 15(b), however, the Commission will rely, for purposes of applying section 6(b)(5), upon the filer's own characterization of its filing as being submitted pursuant to section 15(b) and 16 CFR 1115.13.

Second, the Supplemental NPR proposes to require that a submitting firm identify the information as submitted pursuant to both section 15(b) of the CPSA and 16 CFR 1115.13. The regulation at 16 CFR 1115.13 specifies the information a submitting firm must include in an initial report and a full report under section 15(b) of the CPSA. The revised sentence now reads: ''Under section 6(b)(5), the Commission shall not disclose to the public information that has been identified as submitted pursuant to section 15(b) and 16 CFR 1115.13.''

Finally, the Supplemental NPR proposes to delete the second sentence in § 1101.61(b), which states: ''Section 6(b)(5) also applies to information voluntarily submitted after a firm's initial report to assist the Commission in its evaluation of the section 15 report.'' The proposed revisions to the first sentence in § 1101.61(b), discussed above, conform better to the language in section 6(b)(5) of the CPSA and 16 CFR 1115.13.

Section 6(b)(5) of the CPSA lists four instances in which its additional information disclosure limitations do not apply. The Supplemental NPR proposes revisions to the instances described in § 1101.61(b)(2) and (3). First, in § 1101.61(b)(2), the Supplemental NPR proposes to insert a corrective action plan and a consent order as examples of remedial settlement agreements where section 6(b)(5)'s additional disclosure limitations do not apply. The legislative history demonstrates that Congress envisioned formal documents, such as consent orders, as well as informal agreements, like corrective action plans, would constitute ''remedial settlement agreements'' under section 6(b)(5) of the CPSA. *See* H.R. Rep. No. 97–208, Consumer Product Safety Amendments of 1981, at 1242 (1981) (''The conferees do not intend that a settlement agreement must be made by a formal written agreement, but rather, for example, may be made by an exchange of letters.''). For nearly 40 years, the Commission has interpreted remedial settlement agreements to include letters that embody corrective action plans.

Second, the Supplemental NPR proposes to redesignate paragraph (3), ''The person who submitted the information under section 15(b) agrees to its public disclosure,'' as a new paragraph (c), with minor clarifying edits. The proposed paragraph reads: ''*Disclosure upon consent.* The Commission may disclose information submitted pursuant to section 15(b) without following the requirements of section 6(a) or 6(b) if the person who submitted the information under section 15(b) agrees to its public disclosure.'' This proposal reflects instances in which Commission staff and a manufacturer or private labeler have negotiated and agreed upon language, for example in a news release such as a recall alert. Section 6 notice is not required for such consensual releases.

Paragraph (4) currently applies the exception in section 6(b)(5)(D) where ''[t]he Commission publishes a finding that the public health and safety requires public disclosure with a lesser period of notice than is required by section 6(b)(1).'' The legislative history of section 6(b)(5)(D) suggests that public health and safety findings trigger an exception to section 6(b)(3) and, relatedly, section 6(b)(2), which requires the Commission to notify the manufacturer or private labeler if it

intends to disclose information that the firm claimed to be inaccurate. *See* H.R. Rep. No. 110–501, Consumer Product Safety Modernization Act (Dec. 19, 2007) (''It is important to note that section 6(b)(3) of CPSA, which allows the affected company to seek an injunction against the release of information in Federal court, does not apply to section 6(b)(5) and the new health and safety exception.''). Congress, however, did not clearly incorporate these exclusions into the text of section 6(b)(5). Accordingly, the Commission seeks comment on whether sections 6(b)(2) and (b)(3) apply where there has been a public health and safety finding under section 6(b)(5)(D) of the CPSA.

The Supplemental NPR proposes one conforming change in § 1101.61(b), to align with the statute and non-substantive edits for clarity. The Supplemental NPR proposes to remove ''section 6(b)(1)–(3)'' and, in its place, add ''sections 6(a) and 6(b)(1)–(3)'' to reflect that the Commission may disclose, in certain instances, information submitted pursuant to 15(b) of the CPSA only after complying with the requirements of sections 6(a) and 6(b)(1)–(3) of the CPSA. The Supplemental NPR also proposes to redesignate paragraphs in § 1101.61(b) and to insert minor grammatical edits throughout § 1101.61 for clarity.

2. Proposed Changes to § 1101.62 (Statutory Exceptions to Section 6(b)(5) Requirements)

The 2014 NPR did not propose any changes to § 1101.62.

The Supplemental NPR proposes conforming changes to align with the statute and minor grammatical edits. For example, in § 1101.62(a)(2), the Supplemental NPR proposes to remove ''under the Consumer Product Safety Act (Pub. L. 92–573, 86 Stat. 1207, as amended (15 U.S.C. 2051, *et seq.*))'' and, in its place, add ''of the Acts''.

3. Proposed Changes to § 1101.63 (Information Submitted Pursuant to Section 15(b) of the CPSA)

Current § 1101.63(c) reads: ''Section 6(b)(5) does not apply to information independently obtained or prepared by the Commission staff.'' The 2014 NPR proposed revising this section to state:

> Section 6(b)(5) does not apply to information (1) independently obtained or prepared by the Commission staff or (2) identified by the Commission staff through publicly available sources. For example, information that is publicly available or that has been disseminated in a manner intended to reach the public in general, such as news reports; articles in academic and scientific journals; press releases distributed through news or wire services; information that is available on the internet; or information appearing on the publicly available consumer product safety information database established pursuant to section 6A of the CPSA, 15 U.S.C. 2055a, does not fall within section 6(b)(5)'s disclosure limits.

79 FR 10721.

The Supplemental NPR continues to propose, with minor revisions, that section 6(b)(5) does not apply to information that is already available to the public. The Commission disagrees with commenters who asserted that the Commission must withhold from disclosure information that is already available to the public, just because it also appears in a report filed with the Commission pursuant to section 15(b) of the CPSA. The legislative history of section 6 of the CPSA indicates that Congress intended the Commission to have access to information that would not be available to the public and to protect such non-public information from disclosure. H.R. Rep. No. 92–1153, at 31 (1972). But there is no indication that Congress intended for section 6(b)(5) to apply to materials such as a firm's press release or product user manual that a firm already has disclosed to the public, or to retail locations or sale prices that can be identified by running a search on the internet or visiting a retail store, even if this same information appears in a section 15(b) report. The Supplemental NPR thus proposes to revise section 1101.63(c)(2), redesignated as § 1101.63(b)(2), to exclude: ''Information that is already available to the public, including but not limited to, information appearing in a company's press statements, websites, Frequently Asked Questions, product user manuals, sales materials, Securities and Exchange Commission filings, or other public statements or documents published or publicly disseminated by a manufacturer, distributor, or retailer.''

The Supplemental NPR also proposes clarifying revisions to the phrase, ''information independently obtained or prepared by the Commission staff,'' which the 2014 NPR proposed to redesignate as § 1101.63(c)(1). A firm submitting a section 15(b) report must provide copies or a summary of any complaints related to the safety of the product, or any allegations or reports of injuries associated with the product. 16 CFR 1115.13(d)(6). In addition, upon request, the submitting firm must provide the names and addresses of all distributors, retailers, and purchasers, including consumers, of the product. 16 CFR 1115.13(d)(14). We do not believe that Congress intended section 6(b)(5) to preclude the Commission from contacting a consumer to obtain additional information about an incident referenced in a section 15(b) report. Likewise, there is no indication that Congress intended to restrict the Commission from contacting other purchasers, such as retailers and distributors, to acquire additional information about a product at issue in a section 15(b) report, even if purchaser information appears in a section 15(b) report. If the Commission could not investigate information contained in a section 15(b) report, the benefit of those reports would be largely lost. Furthermore, the Commission would not be able to ''protect the public against unreasonable risks of injury associated with consumer products'' or ''promote . . . investigation into the causes and prevention of product-related deaths, illnesses, and injuries,'' as Congress mandated. 15 U.S.C. 2051(b)(1), (4). Accordingly, the Supplemental NPR proposes to revise § 1101.63(c), redesignated § 1101.63(b)(1), to state that section 6(b)(5) does not apply to: ''Information independently obtained or prepared, or developed through subsequent investigation and verification, by the Commission, any member of the Commission, or any employee, agent, or representative, including contractor, of the Commission in an official capacity.''

In § 1101.63(a), redesignated § 1101.63(a)(1), the Supplemental NPR proposes revisions to align with revised § 1101.61(b). The Supplemental NPR also proposes to insert at the end of redesignated § 1101.63(a)(1) the citation to 16 CFR 1115.13.

In addition, the Supplemental NPR proposes throughout § 1101.63 conforming changes to align with the statute, organizational edits to make this section easier to read, and minor grammatical edits for clarity. For example, the Supplemental NPR proposes to combine the information contained in paragraphs (a) and (b) as § 1101.63(a), which now specifies all of the information to which section 6(b)(5) applies. The Supplemental NPR also proposes to state explicitly that section 6(b)(5)'s additional disclosure limitations apply not just to documents generated by staff, but also to documents generated by the Commission, any member of the Commission, or any employee, agent, or representative, including contractor, of the Commission in an official capacity, and to any oral communications made by these individuals or the Commission.

I. Subpart H—Delegation of Authority to Information Group

1. Proposed Changes to § 1101.71 (Delegation of Authority)

The 2014 NPR proposed technical changes to § 1101.71. 79 FR 10721. The Supplemental NPR continues to propose most of these changes.

The Supplemental NPR proposes to remove from § 1101.71 all references to Commission delegation of authority to the Secretary and/or his or her designees. These proposed revisions reflect the current organizational structure of the Commission, in which the Secretary reports directly to the General Counsel. The Supplemental NPR also proposes to remove all references to the General Counsel's senior staff designees and the establishment of an Information Group. When making decisions under this section, the General Counsel routinely consults with staff across the Office of the General Counsel, including the Secretary of the Commission.

In addition, the Supplemental NPR proposes conforming changes to align with the statute, paragraph designations in § 1101.71(a), and minor grammatical edits for clarity. For example, in § 1101.71(a), the Supplemental NPR proposes to (1) remove ''release'' and, in its place, add ''disclosure'' and, (2) remove ''firms'' and, in its place, add ''the manufacturer or private labeler.''

III. Public Comment on the 2014 NPR

In the 2014 NPR, the Commission invited comments on the proposed changes to 16 CFR part 1101. The Commission received 24 comments. The comments are available on *www.regulations.gov* by searching under docket number CPSC–2014–0005. This section III responds to significant issues raised by the commenters.

A. General Comment

Comment 1—The Consumer Federation of America (CFA), Consumers Union, Kids in Danger, National Consumers League, Public Citizen, The Safety Institute, and the U.S. Public Interest Research Group (U.S. PIRG) stated that the 2014 NPR proposes moderate revisions to modernize the regulation and to make it more consistent with the statute and industry practice. Although these commenters agreed with the 2014 NPR's provisions, they asserted that the modest changes do not do enough to ameliorate the inherent problem of section 6(b), namely, its obstacles to transparency and the immediate release of crucial product safety information.

Response 1—Section 6(b) imposes unique requirements on the Commission's public disclosure of information, that do not limit other Federal safety agencies. In revising the 6(b) Regulation, the 2014 NPR sought to improve transparency and openness in the Commission's disclosure of information while maintaining compliance with the stringent statutory requirements. The Supplemental NPR proposes additional revisions to increase transparency and prevent unnecessary delays in disclosing critical health and safety information.

B. Comments Addressing Specific Sections of the 6(b) Regulation

i. Insertion of the Word ''Calendar'' Before ''Days'' (§§ 1101.1 (Redesignated § 1101.2) and 1101.22, 1101.23, 1101.25, and 1101.71)

Comment 2—The Outdoor Power Equipment Institute (OPEI) objected to the proposal in the 2014 NPR to insert throughout the 6(b) Regulation the word, ''calendar'', between ''15'' and ''days''. This commenter stated that shortening a manufacturer or private labeler's response period from 15 business days to 15 calendar days would place an additional burden on firms to provide meaningful comments within an already short period.

Response 2—Rather than shorten the time to respond to section 6 notices, this proposed revision reflects CPSC's practice since November 2008, when the Commission published a final rule to revise CFR part 1101 in accordance with CPSIA's 6(b) amendments. 73 FR 72334. As part of these revisions, the Commission amended § 1101.25 and replaced the words, ''10 working,'' with ''5''. 73 FR 72335. Since then, the Commission has calculated the time for providing notice and for receiving comments under section 6(b) as calendar days.

Currently, however, only 16 CFR 1101.22(a)(1) specifies ''calendar'' days, while the remaining sections in part 1101 that discuss notice and comment timing simply state ''days.'' To remove potential ambiguity, the Supplemental NPR continues to propose inserting ''calendar'' before ''days'' in sections that discuss timing and that do not already refer to ''calendar days.''

ii. The Information Must Pertain to a Specific Product (§ 1101.11(a)(1))

Comment 3—NAM, the Outdoor Industry Association (OIA), and the Upholstered Furniture Action Council (UFAC) objected to the 2014 NPR proposal to delete from § 1101.11(a)(1) the phrase, ''which is either designated or described in a manner which permits its identity to be ascertained readily by the public.'' NAM stated that deleting this phrase would narrow the type of information subject to section 6(b), and OIA maintained that because ''descriptive, contextual or use statements'' will no longer be subject to section 6(b), the Commission may reveal the identity of a product under a trade or brand name without providing a firm with the requisite notice and opportunity to comment. UFAC stated that the Commission should reconsider its proposal in the context of rulemaking. According to UFAC, some stakeholders provide information during a rulemaking with the intent of impacting negatively entire product categories.

Response 3—The commenters' belief that the 2014 NPR proposal would narrow the type of information that triggers section 6(b)'s requirements, is mistaken. Section 6(b)(1) requires the Commission to provide a manufacturer or private labeler with advance notice and opportunity to comment on the information, ''if the manner in which such consumer product is designated or described in such information *will permit the public to ascertain readily the identity of such manufacturer or private labeler.*'' 15 U.S.C. 2055(b)(2) (emphasis added). This statutory provision is currently reflected in § 1101.11(a)(4), which the Supplemental NPR proposes to redesignate as § 1101.11(a)(2) and to revise with minor edits. Proposed § 1101.11(a)(2) now reads: ''The manner in which the consumer product is designated or described in the information must permit the public to ascertain readily the identity of the manufacturer or private labeler (see § 1101.13).'' In addition, § 1101.11(a)(1) of the current 6(b) Regulation contains the following additional requirement that serves to limit the types of intended disclosures that obligate the Commission to satisfy the requirements of section 6(b)(1): ''The information must pertain to a specific product which is either designated or described in a manner which permits its identity to be ascertained readily by the public.'' Thus, under the current regulation, pursuant to § 1101.11(a)(1) and (4), section 6(b)(1) notice and opportunity to comment apply only if the public could ascertain readily both the identity of the manufacturer or private labeler and the identity of the product from the face of the information proposed to be disclosed. The requirement in § 1101.11(a)(1) could result in instances where the Commission does not provide 6(b)

notice and opportunity to comment because the public could ascertain readily, from the information proposed for disclosure, only the identity of the product's manufacturer or private labeler, but not the identity of the product itself.

Despite the 6(b) Regulation, the Commission does not believe the statutory language supports this approach. Accordingly, the Supplemental NPR proposes to delete § 1101.11(a)(1) to adhere more closely to the statutory language and provide for greater use of the section 6(b) procedures.

Regarding rulemakings, the Commission recognizes that stakeholders may have differing views on a proposed consumer product safety regulation. However, the Commission will not apply the requirements of section 6(b)(1)–(3) of the CPSA to a rulemaking proceeding because such proceedings are specifically exempt. Section 6(b)(4)(B) of the CPSA states that the requirements of section 6(b)(1)–(3) shall not apply to the public disclosure of ''information in the course of or concerning a rulemaking proceeding (which shall commence upon the publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking).'' 15 U.S.C. 2055(b)(4)(B).

iii. Removal of the Phrase, ''Individual Members, Employees, Agents, Contractors or Representatives of the Commission Acting in Their Official Capacities'' (§ 1101.11(a)(2))

Comment 4—TIA observed that the 2014 NPR's proposal to remove from § 1101.11(a)(2) the phrase, ''individual members, employees, agents, contractors or representatives of the Commission acting in their official capacities,'' could cause these individuals to believe that they are no longer subject to section 6(b).

Response 4—Section 6(d)(2) of the CPSA states that the ''provisions of [section 6] shall apply whenever information is to be disclosed by the Commission, any member of the Commission, or any employee, agent, or representative of the Commission in an official capacity.'' 15 U.S.C. 2055(d)(2). This statutory restriction on the Commission and specified individuals appears in § 1101.11(a)(3), which the Supplemental NPR proposes to redesignate as § 1101.11(a)(1) and to revise with minor edits to conform to the statute. Addressing the commenter's concern, revised § 1101.11(a)(1) would read: ''The Commission, any member of the Commission, or any employee, agent, or representative, including contractor, of the Commission in an official capacity must propose to disclose the information to the public (see § 1101.12).''

iv. Inclusion of Reports of Harm in the List of Information Not Subject to Section 6(b)'s Notice and Comment Requirements (§ 1101.11(b)(6) (Redesignated § 1101.11(b)(5))

Comment 5—CFA, Consumers Union, Kids in Danger, National Consumers League, Public Citizen, The Safety Institute, and U.S. PIRG supported the 2014 NPR's proposal to add reports of harm posted on *SaferProducts.gov* to the list of information not subject to section 6(b)(1). These commenters state that reports of harm posted to *SaferProducts.gov* specifically fall outside the statutory requirements of section 6(b). Several of these commenters also noted that the Commission should not have to ''spend resources hiding information that either has already been disclosed by the agency or available elsewhere.''

On the other hand, the Juvenile Products Manufacturer's Association (JPMA), NAM, and TIA objected to the 2014 NPR's proposal to add reports of harm posted on *SaferProducts.gov* to the 6(b) Regulation's list of information not subject to section 6(b)(1). TIA asserted that the exclusion from section 6(b) for reports of harm applies ''only within the confines'' of *SaferProducts.gov* and ''subject to the express disclaimers provided therein.'' Letter from Toy Industry Association, Inc. (Apr. 28, 2014); *see also* Letter from National Association of Manufacturers (Apr. 28, 2014) (asserting that 6(b) exclusion does not apply to ''alternative disclosures of information contained in the report''). According to these associations, the Commission's proposal to categorically exclude reports of harm from section 6(b) procedures creates fairness issues. JPMA further stated that excluding from the section 6(b) requirements disclosure of a report of harm that is responsive to a FOIA request deprives a firm of the right to challenge the accuracy, fairness, or responsiveness of the document.

Response 5—This Supplemental NPR adopts the 2014 NPR's proposed revision. Reports of harm posted on *SaferProducts.gov* are explicitly excluded from the scope of the statutory 6(b) requirements by statute and the Commission's current regulations. *See* 15 U.S.C. 2055a(f)(1) (excluding from section 6(b) reports of harm published to *SaferProducts.gov*); 16 CFR 1102.44(a) (''Sections 6(a) and 6(b) of the CPSA shall not apply to the submission, *disclosure,* and publication of information provided in a report of harm that meets the minimum requirements for publication in § 1102.10(d) in the Database'' (emphasis added)).

Once posted to *SaferProducts.gov*, reports of harm are readily available to the general public. Consequently, the Commission will treat such reports in accordance with the Commission's proposed approach for publicly available information. As discussed in section II.C.2.b.ii above, under this approach, the Commission could release reports of harm or information contained in such reports, without notice under section 6(b)(1), if the Commission does not characterize the information contained in the report or also release other information that is subject to section 6(b)(1), and the Commission's use of the *SaferProducts.gov* information is accurate and not misleading.

JPMA's argument that excluding a report of harm deemed responsive to a FOIA request from the section 6(b) process deprives a firm of the right to challenge the accuracy of the document is without merit. Pursuant to section 6A(c) of the CPSA, the Commission must transmit a report a harm to a manufacturer or private labeler identified in a report and provide such firm with an opportunity to submit comments on the information contained in the report, including claims regarding accuracy. 15 U.S.C. 2055a(c)(1), (2), (4); 16 CFR 1102.12, 1102.20(a), 1102.26. If the Commission determines that the information is materially inaccurate, the Commission must: (1) decline to add the materially inaccurate information to *SaferProducts.gov;* (2) correct the materially inaccurate information in the report and add the report to *SaferProducts.gov;* or (3) add information to correct inaccurate information in *SaferProducts.gov.* 15 U.S.C. 2055a(c)(4)(A); *see also* 16 CFR 1102.26 (interpreting statutory requirement).

Although section 6A(f)(1) of the CPSA specifically excludes from the 6(b) notice and comment requirements reports of harm that are published on *SaferProducts.gov*, this provision is silent regarding reports of harm that do not meet the criteria for publication. 15 U.S.C. 2055a(f)(1). For reports of harm that the Commission has not published on *SaferProducts.gov*, the Commission will provide firms with the requisite 6(b) notice.

Comment 6—JPMA noted that the Commission should not expend resources to gather and produce information, such as reports of harm published on *SaferProducts.gov*, if such

information is independently available to the FOIA requester.

Response 6—We agree with this comment. One of the purposes of the CPSA is to ''assist consumers in evaluating the comparative safety of consumer products.'' 15 U.S.C. 2051(b)(2). If the Commission receives a FOIA request specifically seeking reports of harm, we will continue our current practice of referring the requester to *SaferProducts.gov* to conduct their own search for this publicly available information.

v. Inclusion of Information That Is Already Available to the Public in the List of Information Not Subject to Section 6(b)'s Notice and Comment Requirements (§ 1101.11(b)(7) (Redesignated § 1101.11(b)(6))

Comment 7—Seven commenters comprising consumer groups, including CFA, Kids in Danger, and U.S. PIRG, supported the 2014 NPR's proposal to include in the list of information not subject to section 6(b)(1) the following: ''Information that is publicly available or that has been disseminated in a manner intended to reach the public in general, such as news reports; articles in academic and scientific journals; press releases distributed through news or wire services; or information that is available on the internet.''

In contrast, 14 commenters, including the Consumer Specialty Products Association (CSPA), Footwear Distributors and Retailers of America (FDRA), and NAM, among others, objected to the 2014 NPR's proposal to include publicly available information in the list of information not subject to section 6(b)(1). In general, these commenters asserted that the Commission's proposal to exclude publicly available information from the notice and comment requirements violates the CPSA. The commenters stated that the 6(b) requirements apply to any information the Commission releases to the public, regardless of the public's pre-existing access to the information.

Response 7—The Commission disagrees with the assertion that section 6(b) applies to information that is already available to the public. Section 6(b)(1) of the CPSA requires the Commission to provide advance notice and an opportunity to comment ''prior to [the Commission's] public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith.'' 15 U.S.C. 2055(b)(1). Black's Law Dictionary defines ''disclosure'' as ''[t]he act or process of making known something that was previously unknown.'' *U.S.* v. *Fei Ye,* 436 F.3d 1117, 1120 (9th Cir. 2006) (citing Black's Law Dictionary 477 (7th ed. 1999)). The Commission's use of publicly available information, such as information in a news article or an academic or scientific journal, does not constitute a ''public disclosure'' under section 6(b) for which notice and opportunity to comment are required, because such information has already been put in the public domain by the Commission or by others.

However, commenters correctly noted that publicly available information, including but not limited to, information that appears on the internet, can be misleading or inaccurate—even intentionally so. Commenters also expressed concern that the Commission's public use of such information may imply that the information is verified, accurate, or reliable.

Taking account of the comments received, the Supplemental NPR proposes a revised approach for information already available to the public. As discussed in section II.C.2.b.ii above, under the revised approach, the Commission will release or identify information that the Commission obtained from publicly available sources only if (1) the Commission does not characterize the publicly available information or relay new information, and (2) the Commission's use of the information is accurate and not misleading. This revised approach provides additional protection against inaccurate or misleading communications from the Commission.

vi. Information Previously Disclosed (Proposed § 1101.11(b)(7)) and §§ 1101.21(b)(7) (Redesignated § 1101.21(b)(6)), and 1101.31(d) (Redesignated § 1101.31(c))

Comment 8—Seven consumer groups supported the 2014 NPR proposal to include the following in the list of information not subject to section 6(b)(1): ''(8) Information that is substantially the same as information that the Commission previously disclosed in accordance with section 6(b)(1), except as specified in § 1101.31(d).'' In general, these commenters noted that the proposal would save the Commission time and resources.

In contrast, 16 commenters comprising one firm and trade associations, including the Association of Home Appliance Manufacturers (AHAM), JPMA, and the National Retail Federation (NRF), objected to the 2014 NPR proposal. In particular, 12 commenters asserted that the phrase, ''substantially the same,'' is vague and undefined.

Response 8—Section 6(b) does not require a new notice and comment process when the Commission discloses for an additional time, information as to which appropriate notice already has been conveyed and applicable procedures followed. Section 6(b)(1) of the CPSA requires the Commission to provide a manufacturer or private labeler with notice and ''*a reasonable opportunity* to submit comments to the Commission'' on information proposed for release. 15 U.S.C. 2055(b)(1) (emphasis added). Likewise, section 6(b)(6) of the CPSA, which requires the Commission to establish procedures to ensure that information disclosed is accurate and not misleading, applies ''[w]here the Commission *initiates the public disclosure* of information.'' 15 U.S.C. 2055(b)(6). The phrase, ''initiates the public disclosure,'' implies that disclosure constitutes a single event. Moreover, attempting to restrict Commission communications by requiring 6(b) notice and opportunity to comment for each subsequent disclosure would be futile, because the Commission has already disclosed the information to the public in accordance with the section 6(b) requirements, and the Commission does not control who views the previously disclosed information, or how it is further disseminated.

Nevertheless, the Commission agrees with commenters that the proposal announced in the 2014 NPR could be confusing. Upon further consideration, the Commission proposes a different approach for subsequent disclosures of information that should be more straightforward to apply. Under this new approach, the 6(b) Regulation will specify that the requirements of section 6(b)(1) do not apply to: ''Information, not previously disclosed, that in context does not disclose materially more or materially different information about the consumer product than what the Commission previously disclosed in accordance with the law.''

Comment 9—Thirteen commenters comprising one firm and trade associations, including the Fashion Jewelry & Accessories Trade Association (FJATA) and Philips Electronics North America, maintained that renotification for previously disclosed information is critical because: (1) it allows firms to provide new comments on information that the Commission proposes to release again, and (2) a release may be accurate and/or fair at its initial disclosure, but may be inaccurate and/or unfair at a later time, because the firm or the Commission receives or develops new

or additional information, and/or the understanding of information previously disclosed may change.

Response 9—Renotification is not necessary for manufacturers and private labelers to provide the Commission, in the course of its proceedings, with new data or arguments regarding information that CPSC disclosed previously. Regarding commenters' concerns that a subsequent release of information may be inaccurate or unfair, the Commission has an ongoing duty under section 6(b)(7) of the CPSA to ensure that any information it discloses is accurate and not misleading.

Comment 10—The Motorcycle Industry Counsel (MIC) argued that without renotification, firms will not be able to identify staff errors in connection with FOIA requests.

Response 10—The Commission provides firms with two opportunities to review the materials that CPSC intends to disclose in response to a FOIA request. The 6(b)(1) notice includes a copy of the materials that the Commission proposes to disclose to the FOIA requester. This material contains any staff redactions to Personally Identifiable Information (PII) and information subject to Exemption 5 of the FOIA, 5 U.S.C. 552(b)(5), which protects ''inter-agency or intra-agency memorandums or letters that would not be available by law to a party other than an agency in litigation with the agency.'' The 6(b)(2) notice, which informs the manufacturer or private labeler that the Commission disagrees with the firm's inaccuracy objections and will release the documents, includes copies of the final package of materials CPSC intends to disclose to the FOIA requester. These materials incorporate any comments from the manufacturer or private labeler with which Commission staff agrees, and all redactions to the materials, including information considered confidential under section 6(a)(2) of the CPSA. Commission staff also includes with the 6(b)(2) notice a copy of the cover letter to the FOIA requester, explaining the information that the Commission could not disclose. Therefore, firms have several opportunities before the Commission discloses materials to identify staff errors in connection with FOIA requests.

Finally, as already noted, the Commission cannot control further distribution of information it makes public through the section 6(b) process, and thus attempts by manufacturers or private labelers to limit subsequent releases of previously disclosed information could be futile even if they were allowed under the 6(b) Regulation.

Comment 11—FJATA, MIC, and TIA stated that renotification is critical because it allows manufacturers and private labelers to know who requested their information.

Response 11—Renotification is not necessary for a firm to know who submitted a FOIA request for its information. The Commission posts on its FOIA web page FOIA Request Logs, which describe each FOIA request that the Commission receives and identify the FOIA requester (available at *https://www.cpsc.gov/Newsroom/FOIA/FOIA-Request-Logs*).

vii. The Commission Will Provide Advance Notice and Opportunity To Comment if There Is a Question Whether the Public Could Readily Ascertain the Identity of a Manufacturer or Private Labeler (§ 1101.13)

Comment 12—The 2014 NPR proposed deleting from § 1101.13 the last sentence, which states, ''The Commission will provide the advance notice and opportunity to comment if there is a question whether the public could readily ascertain the identity of a manufacturer or private labeler.'' 79 FR 10715. The Coalition for Sound Safety Solutions (CS3), JPMA, MIC, NAM, and NRF objected to this proposal. In general, these commenters stated that the Commission's proposal to remove this sentence implies that the Commission will not provide notice, even when there is ambiguity regarding whether the public could ascertain the identity of the firm. Two of these commenters asserted that the proposed revision conflicts with the statutory language, legislative history, and purpose of section 6(b).

Response 12—We disagree with these comments. The sentence proposed for deletion establishes a subjective standard for section 6(b) notification that would be difficult to apply consistently. It is, moreover, inconsistent with the objective ''reasonable person'' standard the Commission adopted in the first sentence of this section. Under the objective standard, if a reasonable person who lacks specialized expertise can ascertain readily the identity of the manufacturer or private labeler from the information proposed to be disclosed, the Commission will provide such information to the firm for section 6(b) comment. The proposed deletion removes a potential source of confusion around the more easily applied, objective standard.

viii. Electronic Notice and Communication (§§ 1101.21, 1101.22(a) (Removed), 1101.23(c) (Removed), and 1101.25(c) (Redesignated § 1101.25(b))

Comment 13—Commenters on §§ 1101.21, 1101.22(a), 1101.23(c), and 1101.25(c) overwhelmingly supported the 2014 NPR's proposal to authorize electronic 6(b) notices, direct Commission staff to transmit requisite notices through an electronic medium whenever possible, and encourage electronic communication with the Commission. Some commenters sought clarification of the Commission's process for sending the initial 6(b) notice, including whether the Commission will use the business portal (available through *https://www.saferproducts.gov/Business*) for providing notice and receiving comments and whether firms may continue to submit and receive 6(b) communications via U.S. mail and other methods.

Response 13—Currently, when the FOIA Office receives a request for records pertaining to a manufacturer or private labeler, the Commission sends the section 6(b)(1) notice to the firm via secure collaboration software. This notice includes a copy of the FOIA request, with redactions of any PII, and a copy of the records requested, with redactions of PII and any information that falls under FOIA Exemption 5, 5 U.S.C. 552(b)(5). The FOIA Office also uses secure collaboration software to send to the manufacturer or private labeler the section 6(b)(2) notice, a copy of the redacted records, and a copy of the Commission's final letter to the requester. To use the software, the FOIA Office must have the current email address of the firm's representative. If an email address cannot be found, the FOIA Office sends the notice via certified mail.

For other proposed disclosures, such as a ''unilateral'' news release in which the Commission warns consumers about a potential defect or risk without the relevant firm's cooperation, the Commission's current practice is to provide the section 6(b)(1) and (2) notices via email. Where the Commission does not have an email address or the Commission cannot confirm electronic receipt of the notice, Commission staff will provide notice using other methods, including delivery via U.S. mail or other delivery service. *See* proposed § 1101.21(b).

ix. Deletion of the Phrase, ''Upon His or Her Own Initiative Or'' (§ 1101.22(a)(2))

Comment 14—CFA, Consumers Union, Public Citizen, The Safety

Institute, and U.S. PIRG supported the 2014 NPR's proposal to delete the phrase, ''Upon his or her own initiative or,'' from the first sentence of § 1101.22(a)(2), which states: ''Upon his or her own initiative or upon request, the Freedom of Information Officer may provide a different amount of time for comment, particularly for firms that receive voluminous or complex material.'' The commenters noted that this is a minor revision to reflect actual practice.

Response 14—The Commission agrees with these comments. Absent a specific request from a manufacturer or private labeler, the Freedom of Information Officer typically has not provided a longer amount of time for a firm to comment. In general, firms are in the best position to initiate a suggestion that additional time may be necessary to provide substantive comments on information that the Commission proposes to disclose.

x. Disclosure of a Firm's Comments (§§ 1101.21(b)(5) (Redesignated 1101.21(b)(4)), 1101.24(c), 1101.31(b) (Redesignated 1101.31(a)), 1101.33(a)(1), and 1101.33(b)(3) (Redesignated 1101.21(b)(4))

Comment 15—CFA, Consumers Union, Kids in Danger, National Consumers League, Public Citizen, The Safety Institute, and U.S. PIRG supported the 2014 NPR's proposal to require manufacturers and private labelers to provide a rationale, such as an applicable statutory or regulatory basis or provision, to support withholding their comments and an explanation why disclosure of the firm's comments is not necessary to ensure that the disclosure of the information that is the subject of the comments is fair in the circumstances. These commenters noted that this proposal will increase transparency unless there is a valid reason for the information to be withheld.

In contrast, 13 trade associations, including the Art & Creative Materials Institute, Inc., FDRA and the Retail Industry Leaders Association (RILA), objected to the 2014 NPR's proposal. These commenters stated that the Commission's proposal would chill cooperation between firms and the Commission, causing manufacturers and private labelers to provide limited comments and data regarding the information proposed for disclosure.

Response 15—When the Commission adopted the 6(b) Regulation in 1983, we stated that a firm's comments may ''clarify questions of accuracy, especially those concerning the factual basis for specific statements and the qualifications of individuals to make certain observations or to express opinions.'' 48 FR 57423. In addition, a firm's comments might ''correct minor inaccuracies although the overall substance of the information to be disclosed is accurate.'' *Id.* For these reasons, instead of requiring of a legal rationale such as a statute or regulation, the Supplemental NPR proposes to more broadly require that the manufacturer or private labeler provide the basis for why it suggests the comments should not be disclosed.

We do not expect that adopting this proposal would reduce the usefulness of information firms provide to the Commission in response to section 6(b)(1) notices. We expect firms to submit detailed comments on the information proposed for disclosure, particularly to make their opposition to the proposal more forceful and credible. Indeed, as the regulation explains, a manufacturer or private labeler's submission ''must be specific and should be accompanied by documentation, where available, if the comments are to assist the Commission in its evaluation of the information.'' 16 CFR 1101.24(a).

Comment 16—FDRA, MIC, FJATA, OIA, CS3, and JPMA argued that the 2014 NPR proposal requiring that manufacturers and private labelers provide a rationale to support withholding their comments violates the CPSA. JPMA stated that although the CPSA requires the Commission to disclose a manufacturer or private labeler's comments upon the firm's request, the CPSA does not similarly require the Commission to disclose a firm's objection when the manufacturer or private labeler objects to disclosure. FJATA stated that the Commission would violate the statute if the Commission released a manufacturer's or private labeler's comments without first assessing whether such release is fair and reasonably related to effectuating the purposes of the CPSA.

Response 16—We do not agree with the comments that the Commission's proposal to release a firm's comments violates the CPSA. Section 6(b)(1) states that ''the Commission *may* . . . include with the disclosure any comments or other information or a summary thereof . . . *to the extent permitted by and subject to the requirements of this section.*'' 15 U.S.C. 2055(b)(1) (emphasis added). Thus, the Commission has discretion in deciding whether to release a firm's comments, to the extent permitted by and subject to the requirements of section 6. As the Commission explained in 1983, disclosure of a firm's comments may help to place the information that the Commission proposes to disclose in the proper context, particularly if releasing the comments helps to assure the accuracy of the underlying information disclosure. 48 FR 57423.

The Commission agrees with the comment that the Commission would violate the CPSA if the Commission discloses a manufacturer's or private labeler's comments without first assessing whether the information contained in the comments is accurate and that disclosure of the comments would be fair and reasonably related to the purposes of the CPSA. Thus, the Commission will not disclose comments that the Commission determines are inaccurate or misleading.

Comment 17—ACMI and MIC argued that the Commission's proposal regarding publication of comments contradicts the legislative history of section 6(b). These commenters cited House Report 92–1153 as evidence that Congress did not intend the Commission to release a manufacturer's or private labeler's comments. House Report 92–1153 states:

> There is no intention that the Commission be required to include a manufacturer's or private labeler's explanation in the materials which it determines to disseminate at the end of the 30-day period. This was suggested to the committee and rejected.

Response 17—The proposal regarding release of a firm's comments is aligned with the cited legislative history. While section 6(b)(1) does not *require* the Commission to disclose a manufacturer's or private labeler's comments, unless that firm specifically requests disclosure, the Commission nevertheless has discretion in deciding whether to disclose a firm's comments absent a specific request from the firm. *See* 15 U.S.C. 2055(b)(1) (''In disclosing any information under this subsection, the Commission *may,* . . . include with the disclosure any comments or other information or a summary thereof.'').

Comment 18—FDRA asserted that section 6(a)(3)–(6) of the CPSA only requires firms to mark information as confidential and does not require that firms provide a statutory or regulatory basis for withholding. MIC maintained that neither Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4), nor section 6(a)(2) of the CPSA, requires a firm to provide a rationale to support withholding of trade secret and confidential commercial information. This commenter also stated that without a guarantee that Exemption 4 of the FOIA will protect trade secrets and privileged or confidential commercial information, firms will not provide comments

containing this information, which could deprive the Commission of relevant information.

Response 18—The proposed revisions to the 6(b) Regulation maintain the protections for trade secret or privileged or confidential commercial or financial information as delineated in the CPSA, the FOIA, and our corresponding regulations. *See also* revised 16 CFR 1101.24(b) (claims of confidentiality). Contrary to the commenters' suggestion, merely marking information as confidential is not sufficient to support a claim of confidentiality. Firms should consult the Commission's FOIA regulation at 16 CFR 1015.18, which specifies the information that a firm must provide with any request for confidentiality, and 16 CFR 1015.19, for additional information on Commission determinations regarding confidentiality requests.

Comment 19—ACMI, the American Apparel & Footwear Association, CS3, OIA, and OPEI stated that the Commission's proposed requirement that a manufacturer or private labeler provide a rationale to support withholding of its comments would create additional burdens for both the Commission and firms. OPEI further observed that the Commission's proposal will not create efficiencies because Commission staff will have to review two documents: (1) an argument against disclosure of the information that is the subject of the FOIA request, and (2) an argument against disclosure of the firm's comments.

Response 19—The Commission believes that any additional burdens that the revised policy might create for firms and Commission staff are minimal and justified by legitimate administrative interests as well as the public benefit from greater transparency about consumer product safety.

xi. Disclosure of Information That Is Attorney Work-Product or Subject to an Attorney/Client Privilege (§ 1101.33(b)(3))

Comment 20—Section 1101.33(b) provides examples of disclosures of information that generally would not be fair in the circumstances. Five commenters comprising consumer groups, including Consumer Union and Public Citizen, supported the 2014 NPR's proposal to delete § 1101.33(b)(3), which covers information that is work-product or subject to an attorney/client privilege. Public Citizen noted that ''[t]he Commission is a government agency, and not an arm, client or legal advisor of manufacturers or their law firms.''

In contrast, eight commenters comprising a firm and trade associations, including OPEI and TIA, objected to the Commission's proposal to remove from § 1101.33(b) information that is attorney work-product or subject to the attorney/client privilege. These commenters stated that this provision encourages firms' candor with the Commission and that removal could chill cooperation. OPEI observed that when the Commission adopted the regulation in 1983, the Commission agreed with a comment that disclosure of attorney work-product and information subject to the attorney/client privilege would be unfair. According to this commenter, ''[n]othing has changed that would now render the disclosure of such information fair.''

Response 20—The Commission is concerned that the current regulation may cause a manufacturer or private labeler mistakenly to believe that information the firm intentionally submits to the Commission that is attorney work-product or subject to the attorney/client privilege will remain privileged. To the contrary, if a manufacturer intentionally submits information that is subject to the attorney/client privilege and later becomes involved in litigation with a third party, including another government agency, a court could conclude that the manufacturer waived the privilege when it voluntarily provided the information to the Commission. Moreover, the Commission does not expect or encourage firms to submit information that is legitimately attorney work-product or subject to the attorney/client privilege.

If a firm inadvertently submits information that is attorney work-product or subject to the attorney/client privilege without intending a waiver, the Commission will treat the information in accordance with applicable authorities governing waiver and inadvertent disclosure. In addition, the firm may request confidential treatment of the information in accordance with the Commission's FOIA regulation at 16 CFR 1015.18.

Comment 21—AHAM maintained that even if the information is no longer privileged, the information could still be confidential, and its release would be unfair. Similarly, TIA argued that this provision is important for protecting from disclosure information that manufacturers or private labelers submit to the Commission in connection with section 15(b) of the CPSA, which also may be referenced by staff in preliminary determinations.

Response 21—The submitting manufacturer or private labeler may still assert that other provisions in the CPSA and corresponding regulations require the Commission to maintain the information as confidential. For example, a manufacturer or private labeler may claim that disclosure of the information under section 6(b)(1) would not be fair because the firm furnished the information to facilitate prompt remedial action or settlement of a case and the firm had a reasonable expectation that the information would be maintained in confidence. 16 CFR 1101.33(b)(1). A manufacturer or private labeler also may assert that disclosure is prohibited under section 6(b)(5) of the CPSA because the firm had identified the information as submitted pursuant to section 15(b) and 16 CFR 1115.13, as explained in revised § 1101.61(b). In addition, a manufacturer or private labeler may contend that section 6(a)(2) of the CPSA prohibits disclosure because the information constitutes trade secret or privileged or confidential commercial or financial information under 5 U.S.C. 552(b)(4).

xii. Information Submitted Pursuant to Section 15(b) of the CPSA and Identified by the Commission Staff Through Publicly Available Sources (§ 1101.63(c))

Comment 22—CFA, Consumers Union, and the Safety Institute supported the 2014 NPR's proposal to revise § 1101.63(c) to state that section 6(b)(5) does not apply to information (1) independently obtained or prepared by the Commission staff or (2) identified by the Commission staff through publicly available sources. The commenters maintained that the Commission should not have to use resources to withhold information that is already available to the public.

In contrast, CS3, JPMA, NAM, the Outdoor Industry Council, RILA, and TIA objected to this proposal. In general, these commenters stated that the Commission's proposal violates the CPSA, noting that section 6(b)(5) does not include publicly available information as one of the limited exceptions to that paragraph's extra restriction. The commenters also maintained that the Commission's proposal violates the legislative history of the CPSA. According to TIA, Congress' intent in enacting section 6(b)(5) of the CPSA was to protect information, including publicly available information, that Commission staff did not independently identify or prepare. TIA noted that section 15 reports may reference publicly available

information that was not known previously to the Commission.

Response 22—There is no indication that Congress intended the Commission to withhold from disclosure information that is already available to the public and that appears in a report filed with the Commission pursuant to section 15(b) of the CPSA. In *CPSC* v. *GTE Sylvania, Inc.,* 447 U.S. 102 (1980), the Supreme Court examined the legislative history of the CPSA, including the House Report, and observed that ''[t]he CPSA gave the Commission broad powers to gather, analyze, and *disseminate* vast amounts of *private information*.'' *Id.* at 111 (emphasis added). The House Report on the CPSA states:

> If the Commission is to act responsibly and with adequate basis, it must have complete and full access to information relevant to its statutory responsibilities. Accordingly, the committee has built into this bill broad information-gathering powers. It recognizes that in so doing it has recommended giving the Commission the means of gaining access to a great deal of information which would not otherwise be available to the public or to Government. Much of this relates to trade secrets or other sensitive cost and competitive information. Accordingly, the committee has written into section 6 of the bill detailed requirements and limitations relating to the Commission's authority to disclose information which it acquires in the conduct of its responsibilities under this act.

Id. at 111–112 (citing H.R. Rep. No. 92–1153, p. 31 (1972)).

In enacting the CPSA, in particular section 15(b) and other ''information-gathering'' provisions, Congress authorized the Commission to (1) obtain information that would not be available to the public and (2) protect such information from disclosure. Therefore, information that a firm maintains as confidential and provides in a section 15(b) report, such as test results and the names of manufacturers or suppliers, may be subject to the additional disclosure limitations under section 6(b)(5) of the CPSA. However, information that a person can obtain through a simple internet search or even by entering a retail store that sells the product, such as sales price or product details, is not subject to section 6(b)(5)'s additional disclosure protections.

Comment 23—JPMA and RILA insisted that the Commission should continue to protect from disclosure, under section 6(a)(2) and 6(b)(5) of the CPSA, confidential business information provided in section 15(b) reports.

Response 23—The Commission will withhold under section 6(a)(2) of the CPSA information that a firm considers to be trade secret or privileged or confidential commercial or financial information if the firm submitting the information requests withholding and specifically identifies those sections that must be withheld, and the information meets the statutory and regulatory requirements for withholding. In addition, as discussed in revised § 1101.61(b), the Commission will not disclose information that a firm identifies as submitted pursuant to section 15(b) of the CPSA and 16 CFR 1115.13, unless one of the statutory exceptions applies. If a statutory exception applies, the Commission must still comply with the requirements of sections 6(a) and 6(b)(1)–(3) before disclosing the information.

Comment 24—OIA and NAM maintained that the Commission's disclosure of inaccurate, misleading, or unfair information contained in a section 15(b) report could damage a firm's reputation.

Response 24—The Commission believes that most firms are diligent and thorough in executing their CPSA reporting obligations to the Commission. To the extent that the commenters suggest that the Commission may have reason to believe that a releasable section 15(b) report contains inaccurate, misleading, or unfair information, the Commission will review its release of such submission in accordance with the provisions of section 6(b). *See also* 15 U.S.C. 2068(a)(13) (discussing misrepresentation).

xiii. Voluntary Corrective Action Plans and Remedial Settlement Agreements Under Section 6(b)(5) of the CPSA

Comment 25—Section 6(b)(5) of the CPSA states that, in addition to the requirements of section 6(b)(1), ''the Commission shall not disclose to the public information submitted pursuant to section 15(b) respecting a consumer product unless . . . (B) in lieu of proceeding against such product under section 15(c) or (d), the Commission has accepted in writing a remedial settlement agreement dealing with such product.'' JPMA and TIA asserted that ''[n]either the CPSA nor the regulations equate a 'remedial settlement agreement dealing with [a] product' accepted by the Commission 'in lieu of proceeding against such product [under] 15(c) or (d)' . . . with a voluntary recall corrective action plan where no administrative action is pending or contemplated.'' In addition, NRF urged the Commission to maintain the ''current and long-standing agency practice (if not formal interpretive position) that, in the absence of some other exception under 6(b), all information'' that a firm provides to the Commission under section 15(b) will not be disclosed, regardless of whether the information results in a voluntary recall.

Response 25—The legislative history of the CPSA indicates that Congress did not intend remedial settlement agreements necessarily to be formal written agreements. *See* H.R. Rep. No. 97–208, at 1242 (1981) (''The conferees do not intend that a settlement agreement must be made by a formal written agreement, but rather, for example, may be made by an exchange of letters.''). For nearly 40 years, the Commission has interpreted remedial settlement agreements to include voluntary corrective action plans:

> A voluntary corrective action plan in effect settles a potential administrative or judicial action. Such corrective action can range in scope from adding a label to a product or altering future production to a total recall and publication notification program. *The nature and extent of such an undertaking however does not change the fact that it is a remedial settlement agreement.* 48 FR 57428 (emphasis added).

While section 6(b)(5)'s additional layer of protection may no longer apply to information that a manufacturer or private labeler submits under section 15(b) of the CPSA because the firm and the Commission have agreed to a corrective action plan, the manufacturer or private labeler may still assert that the information must be withheld from disclosure under section 6(a) and 6(b)(1) of the CPSA and the corresponding regulatory provisions.

Comment 26—NRF argued that if the Commission determines that corrective action plans are remedial settlement agreements under section 6(b)(5) of the CPSA, firms will provide the Commission with only ''bare bones'' information under section 15(b). According to this commenter, sharing such limited information with the Commission would ''lead to more protracted and less informed product safety investigations,'' which would jeopardize consumer safety.

Response 26—Tactical submission of only ''bare bones'' information to the Commission in connection with section 15(b), while withholding other information required to be submitted, is prohibited under the requirements of sections 15, 16, 19, and 27 of the CPSA and the corresponding regulations. In addition, we have no reason to believe that restating established policy—that remedial settlement agreements under section 6(b)(5) include corrective action plans—would impact the type and extent of information that firms provide to the Commission under section 15(b).

Section 6(b)(5) of the CPSA creates an *additional* layer of protection from the disclosure of information that a firm submits to the Commission pursuant to section 15(b) of the CPSA. 15 U.S.C. 2055(b)(5) (''In addition to the requirements of paragraph 1 . . .''). Therefore, even if information submitted in connection with section 15(b) is not protected from disclosure under section 6(b)(5) of the CPSA, the information nevertheless may be protected under other withholding provisions specified in the CPSA and the corresponding regulations.

xiv. Firms Can File a Lawsuit To Enjoin the Disclosure of Information

Comment 27—CFA, Consumers Union, National Consumers League, The Safety Institute, and U.S. PIRG expressed disappointment that the proposed rule does not prevent a firm from filing a lawsuit to enjoin the Commission's release of information. These commenters stated that the threat of a lawsuit ''compels CPSC to maintain the secrecy or delay the disclosure of important product safety information.''

Response 27—Congress specifically authorized (1) the manufacturer and private labeler to ''bring an action in the district court . . . to enjoin disclosure of the document'' at issue in a section 6(b)(1) notification, and (2) the district court to ''enjoin such disclosure if the Commission has failed to take the reasonable steps'' established in section 6(b)(1). 15 U.S.C. 2055(b)(3)(A). In any event, the commenters' belief that the Commission withholds releasable information when faced with the threat of a lawsuit is mistaken. The Commission routinely discloses to the public crucial product safety information, even when a manufacturer or private labeler does not agree to conduct a recall or implement another corrective action. In these instances, for example, the Commission may publish a ''unilateral'' press release after complying with the notice and comment requirements under section 6(b) of the CPSA.

xv. Retailers Should Continue To Be Included Among the Firms That Are Covered Under Section 6(b)

Comment 28—RILA stated that the Commission should continue to withhold from disclosure information that retailers, who are not acting as manufacturers, private labelers, or importers of a subject product, provide to the Commission when the Commission contacts the retailer to obtain information regarding (1) an issue that another firm reported to the Commission under section 15(b) of the CPSA or (2) an incident reported to *SaferProducts.gov.* RILA also requested clarification that information a retailer provides in connection with the Retailer Reporting Program, including confidential customer, supplier, and sales data, will remain protected from disclosure under sections 6(a)(2) and 6(b)(5) of the CPSA.

Response 28—Retailers are listed among the entities that must report to the Commission under section 15(b) of the CPSA. 15 U.S.C. 2064(b). Thus, under revised § 1101.63(a), section 6(b)(5)'s additional disclosure limitations apply to information that a retailer identifies as submitted pursuant to section 15(b) of the CPSA and 16 CFR 1115.13, unless one of the exceptions applies.

Before the Commission determines whether particular information proposed for disclosure is confidential, the submitting firm must, among other requirements, specifically identify those portions that the firm claims are confidential and exempt from disclosure. 15 U.S.C. 2055(a)(3); 16 CFR 1015.18, 1015.19(a), 1101.24(b). The Commission will review the information proposed for disclosure, the firm's claims, and applicable authorities, and determine whether the information can be disclosed. 16 CFR 1015.19(a).

xvi. The Commission Should Establish an Appeals Process for 6(b) Determinations

Comment 29—TIA suggested that the Commission create a process within the Office of the General Counsel to enable firms that have received notice to appeal section 6(b) determinations.

Response 29—Section 27(b)(10) of the CPSA, 15 U.S.C. 2076(b)(10), empowers the Commission ''to delegate any of its functions or powers, other than the power to issue subpoenas . . . to any officer or employee of the Commission.'' When the Commission adopted the 6(b) Regulation in 1983, the Commission delegated to the General Counsel ''the authority to render all decisions . . . concerning the release of information subject to section 6(b) when firms have furnished section 6(b) comment,'' except in certain situations. 16 CFR 1101.71(a). The Commission determined that a decision by the General Counsel is a final agency decision and is not appealable as of right to the Commission. 16 CFR 1101.71(c). However, the General Counsel may refer an issue to the Commission for decision under 16 CFR 1101.71(c). Adding an additional appeals process on top of the current Commission process for processing proposed public disclosures would entail additional delay in providing information to the public, that is not justified by a countervailing benefit.

IV. Environmental Considerations

The Commission's regulations address whether the Commission is required to prepare an environmental assessment or an environmental impact statement. 16 CFR part 1021. Those regulations provide a categorical exclusion for certain Commission actions that normally have ''little or no potential for affecting the human environment.'' 16 CFR 1021.5(c)(1). Like the 2014 NPR, *see* 79 FR 10721, this Supplemental NPR falls within the categorical exclusion.

V. Regulatory Flexibility Analysis

Under section 603 of the Regulatory Flexibility Act (RFA), when the Administrative Procedure Act (APA) requires an agency to publish a general notice of proposed rulemaking, the agency must prepare an initial regulatory flexibility analysis (IRFA), assessing the economic impact of the proposed rule on small entities. 5 U.S.C. 603(a). As noted, the Commission is proposing to update the regulation that interprets section 6(b) of the CPSA. Although the Commission is choosing to issue the rule through notice and comment procedures, the APA does not require a proposed rule when an agency issues rules of agency procedure and practice. 5 U.S.C. 553(b). Therefore, the CPSC is not required to prepare an IRFA under the RFA. *See* 79 FR 10721 (discussing IRFA requirement). Moreover, the Supplemental NPR does not propose to establish mandatory requirements for, and would not impose any significant obligations on, small entities (or any other entity or party).

VI. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) establishes certain requirements when an agency conducts or sponsors a ''collection of information.'' 44 U.S.C. 3501–3520. The Supplemental NPR proposes to amend the Commission's rule that describes the agency's procedures for providing manufacturers and private labelers with advance notice and ''a reasonable opportunity to submit comments'' to the Commission on proposed disclosures of information. The Supplemental NPR does not propose to create information collection requirements. The PRA is not implicated in this proposed rulemaking because the existing rule and the Supplemental NPR do not require or request information from firms, but rather, explain the Commission's procedures for providing firms with an

opportunity to provide voluntary comment on certain information before disclosure. *See* 79 FR 10721.

VII. Executive Order 12988 (Preemption)

According to Executive Order 12988 (February 5, 1996), agencies must state in clear language the preemptive effect, if any, of new regulations. Section 26 of the CPSA explains the preemptive effect of consumer product safety standards issued under the CPSA. 15 U.S.C. 2075. The Supplemental NPR proposes updates to the regulation that interprets section 6(b) of the CPSA and does not seek to issue a consumer product safety standard. Accordingly, section 26 of the CPSA does not apply to this rulemaking. Furthermore, this Supplemental NPR implements a provision of the CPSA that is uniquely applicable to the Commission, and is not enforced by state or local governments. Preemption therefore is not relevant.

VIII. Proposed Effective Date

The APA generally requires that the effective date of a rule be at least 30 days after publication of the final rule. 5 U.S.C. 553(d). However, the APA exempts interpretive rules and statements of policy from the general effective date requirement. 5 U.S.C. 553(d)(2). The Supplemental NPR accordingly proposes to make the final rule, if one is adopted, effective as of the date of its publication in the **Federal Register**.

IX. Request for Comments

The Commission requests comments on all aspects of the Supplemental NPR. Comments must be submitted in accordance with the instructions in the **ADDRESSES** section of the preamble. Comments must be received no later than April 3, 2023.

List of Subjects in 16 CFR Part 1101

Administrative practice and procedure; Consumer protection.

For the reasons set forth in the preamble, the Commission proposes to revise 16 CFR part 1101 to read as follows:

PART 1101—INFORMATION DISCLOSURE UNDER SECTION 6(b) OF THE CONSUMER PRODUCT SAFETY ACT

Subpart A—Background

Sec.

Subpart B—Information Subject to Notice and Comment Provisions of Section 6(b)(1)

Subpart C—Procedure for Providing Notice and Opportunity To Comment Under Section 6(b)(1)

Subpart D—Reasonable Steps Commission Will Take To Assure Public Disclosure of Information Is Accurate, and That Disclosure Is Fair in the Circumstances and Reasonably Related To Effectuating the Purposes of the Acts It Administers

Subpart E—Statutory Exceptions of Section 6(b)(4)

Subpart F—Retraction

Subpart G—Information Submitted Pursuant to Section 15(b) of the CPSA

Subpart H—Delegation of Authority to Information Group

Authority: 15 U.S.C. 2055(b).

Subpart A—Background

§ 1101.1 Scope.

These rules apply to the public disclosure of any information obtained under the Consumer Product Safety Act, 15 U.S.C. 2051–2090 (CPSA), the Flammable Fabrics Act, 15 U.S.C. 1191–1204 (FFA), the Poison Prevention Packaging Act of 1970, 15 U.S.C. 1471–1477 (PPPA), and the Federal Hazardous Substances Act, 15 U.S.C. 1261–1278a (FHSA) (collectively, ''the Acts''), or to be disclosed to the public in connection therewith.

§ 1101.2 General background.

(a) *Basic purpose.* These rules set forth the Consumer Product Safety Commission's policy and procedure under sections 6(b)(1)–(5) of the CPSA, 15 U.S.C. 2055(b)(1)–(5), which relate to public disclosure of any information obtained under the Acts, or to be disclosed to the public in connection therewith, from which the identity of a manufacturer or private labeler of any consumer product can be ascertained readily. In addition, these rules provide for retraction of inaccurate or misleading information the Commission has disclosed that reflects adversely upon the safety of any consumer product, class of consumer products, or on the practices of any manufacturer, private labeler, distributor or retailer of consumer products as required by section 6(b)(7) of the CPSA, 15 U.S.C. 2055(b)(7).

(b) *Statutory requirements.* Section 6(b) establishes procedures that the Commission must follow prior to its public disclosure of certain firm-specific information and to retract certain information the Commission has publicly disclosed.

(1) Generally, section 6(b)(1) requires, prior to the Commission's public disclosure of any information obtained under the Acts, or to be disclosed to the public in connection therewith, that the Commission, to the extent practicable, provide manufacturers or private labelers with advance notice and opportunity to comment on the information, if the manner in which such consumer product is designated or described in the information permits the public to ascertain readily the identity of the manufacturer or private labeler. Section 6(b)(1) also requires, prior to such public disclosure, that the Commission take reasonable steps to assure that the information is accurate and that disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the Acts. Disclosure of information may not occur in fewer than 15 calendar days after notice to the manufacturer or private labeler unless the manufacturer or private labeler consents or the Commission publishes a finding that the public health and safety requires a

lesser period of notice. Section 6(b)(4) establishes exceptions to these advance notice requirements. In addition to the requirements of Section 6(b)(1), Section 6(b)(5) creates additional limitations, as well as additional exceptions to these limitations, on the public disclosure of information submitted to the Commission under section 15(b) of the CPSA. Section 15(b) of the CPSA, 15 U.S.C. 2064(b), requires every manufacturer, distributor, and retailer of a consumer product to immediately inform the Commission once the firm obtains information which reasonably supports the conclusion that the product (a) fails to comply with an applicable consumer product safety rule or with a voluntary consumer product safety standard upon which the Commission has relied under section 9 of the CPSA; (b) fails to comply with any other rule, regulation, standard, or ban under the CPSA or any other act enforced by the Commission; (c) contains a defect which could create a substantial product hazard; or (d) creates an unreasonable risk of serious injury or death (see 16 CFR part 1115).

(2) Section 6(b)(2) requires the Commission to provide further notice to manufacturers or private labelers where the Commission proposes to disclose information the manufacturers or private labelers have claimed to be inaccurate.

(3) Section 6(b)(3) authorizes manufacturers and private labelers to bring lawsuits against the Commission to prevent public disclosure of information after receipt of notice from the Commission designating the date set for release of the information.

(c) *Clearance procedures.* Section 6(b)(6) requires the Commission to establish procedures to ensure that Commission-initiated disclosures of information that reflect on the safety of a consumer product or class of consumer products are accurate and not misleading, whether or not such information would enable the public to ascertain readily the identity of a manufacturer or private labeler.

Subpart B—Information Subject to Notice and Comment Provisions of Section 6(b)(1)

§ 1101.11 General application of provisions of section 6(b)(1).

(a) *Information subject to section 6(b)(1).* To be subject to the notice and comment provisions of section 6(b)(1), information must meet all the following criteria:

(1) The Commission, any member of the Commission, or any employee, agent, or representative, including contractor, of the Commission in an official capacity must propose to disclose the information to the public (see § 1101.12).

(2) The manner in which the consumer product is designated or described in the information must permit the public to ascertain readily the identity of the manufacturer or private labeler (see § 1101.13).

(3) The information must be obtained, generated or received under the Acts, or be disclosed to the public in connection therewith.

(b) *Information not subject to section 6(b)(1).* The requirements of section 6(b)(1) do not apply to:

(1) Information described in the exceptions contained in section 6(b)(4) or (b)(5) of the CPSA (see subparts E and G of this part).

(2) Information the Commission is required by law to make publicly available. This information includes, for example, Commission notifications to foreign governments regarding certain products to be exported, as required by section 18(b) of the CPSA, 15 U.S.C. 2067(b); section 14(d) of the FHSA, 15 U.S.C. 1273(d); and section 15(c) of the FFA, 15 U.S.C. 1202(c) (see 16 CFR 1019.7).

(3) Information required to be disclosed to the President and Congress pursuant to section 27(j) of the CPSA, 15 U.S.C. 2076(j).

(4) Information filed or presented in administrative proceedings or litigation to which the Commission is a party and which is not expressly subject to the section 6(b)(4) exceptions (see subpart E of this rule).

(5) A report of harm posted on the publicly available consumer product safety information database pursuant to section 6A of the CPSA, 15 U.S.C. 2055a.

(6) Information that has already been made available to the public through sources other than the Commission, provided the Commission clearly indicates the source of the information and the Commission's use of the information is accurate and not misleading.

(7) Information, not previously disclosed, that in context does not disclose materially more or materially different information about the consumer product than what the Commission previously disclosed in accordance with the law.

§ 1101.12 Definition of "public".

Public. For the purposes of section 6(b)(1), the public includes any person except:

(a) Any member of the Commission or any employee, agent, or representative, including contractor, of the Commission in an official capacity. However, disclosures of information by such persons are subject to section 6(b).

(b) State officials who are commissioned officers under section 29(a)(2) of the CPSA, 15 U.S.C. 2078(a)(2), to the extent that the Commission furnishes them information necessary for them to perform their duties under that section. However, disclosures of information by such officials are subject to section 6(b).

(c) Members of a Commission Chronic Hazard Advisory Panel established under section 28 of the CPSA, 15 U.S.C. 2077. However, disclosures of information by such a Panel are subject to section 6(b).

(d) Persons, including but not limited to, consumers, manufacturers, private labelers, retailers, or distributors, to which the information to be disclosed pertains, or their legal representatives.

(e) Persons, including but not limited to, consumers, manufacturers, private labelers, retailers, or distributors, which provided the information to the Commission, or their legal representatives.

(f) Other Federal agencies or state or local governments to which accident and investigation reports are provided pursuant to section 29(e) of the CPSA, 15 U.S.C. 2078(e). However, as required by that section, employees of Federal agencies or state or local governments may not release to the public copies of any accident or investigation report made under the CPSA by an officer, employee or agent of the Commission unless CPSC has complied with the applicable requirements of section 6(b).

(g) The Chairman or ranking minority member of a committee or subcommittee of Congress acting pursuant to committee business and having jurisdiction over the matter which is the subject of the information requested.

(h) Any Federal, state, local, or foreign government agency pursuant to, and in accordance with, section 29(f) of the CPSA.

§ 1101.13 Public ability to ascertain readily identity of manufacturer or private labeler.

The advance notice and comment provisions of section 6(b)(1) apply only when a reasonable person receiving the information in the form in which the information is to be disclosed and lacking specialized expertise can ascertain readily from the information itself the identity of the manufacturer or private labeler of a consumer product at issue in the disclosure. Information about categories of consumer products is not within the scope of section

6(b)(1), provided such information will not permit the public to ascertain readily the identity of the products' manufacturers or private labelers. Information about manufacturers or private labelers is not within the scope of section 6(b)(1), provided such information does not designate or describe a consumer product.

Subpart C—Procedure for Providing Notice and Opportunity To Comment Under Section 6(b)(1)

§ 1101.21 Form, transmission, and content of notice.

(a) *Notice may be oral or written.* The Commission will generally provide to manufacturers or private labelers written notice and opportunity to comment on information subject to section 6(b)(1), except as provided in § 1101.26. However, if the Commission determines that written notice is impracticable, it will provide notice and opportunity to comment orally, if practicable.

(b) *Electronic transmission.* In the interest of promoting timely notification, the Commission, to the extent practicable, will transmit any notice required under this part via email or other electronic means. If electronic transmission is not practicable or the Commission cannot confirm electronic receipt of the notice, the Commission will take appropriate steps to provide notice using other methods, including delivery via U.S. mail or other delivery service.

(c) *Content of notice.* The Commission shall, to the extent practicable, provide the manufacturer or private labeler with:

(1) Either the actual text of the information to be disclosed or a summary of the information.

(2) A general description of the manner in which the Commission will disclose the information, including any other relevant information the Commission intends to include with the disclosure.

(3) A request for comment with respect to the information, including a request for explanatory data or other relevant information for the Commission's consideration.

(4) A statement that the Commission may, and upon the written request of the manufacturer or private labeler shall, include with the disclosure any comments or other information or a summary thereof submitted by such manufacturer or private labeler, to the extent permitted by and subject to the requirements of section 6 of the CPSA.

(5) Notice that the manufacturer or private labeler may request confidential treatment for the information, in accordance with section 6(a)(3) of the CPSA, 15 U.S.C. 2055(a)(3) (see § 1101.24(b)).

(6) A statement that no further request for comment will be sought by the Commission if the Commission intends to disclose information, not previously disclosed, that in context does not disclose materially more or materially different information about the consumer product than what the Commission previously disclosed in accordance with the law.

(7) The name, contact information, and telephone number of the person to whom comments should be sent and the time when any comments are due (see § 1101.22).

§ 1101.22 Time for comment and requests for extension of time.

(a) *Time for comment.* (1) Generally, manufacturers and private labelers will receive 10 calendar days from the date on which the Commission transmits the notice to furnish comments. Manufacturers and private labelers that receive requests for comments by mail will receive an additional 3 calendar days to comment to account for time in the mail.

(2) The Commission may provide a longer amount of time for comment, particularly for manufacturers and private labelers that receive from the Commission voluminous or complex material to review. In addition, the Commission may publish a finding that the public health and safety requires a lesser period of notice and may require a response in a shorter period of time (see § 1101.23).

(b) *No response submitted.* If the Commission has not received a response within the time specified (subject to any extension of time that has been granted under paragraph (c)), the Commission will analyze the information as provided in subpart D and will not give the further notice provided in section 6(b)(2).

(c) *Requests extension of time.* (1) Requests for extension of time to comment on information to be disclosed must be in writing and submitted to the person who provided the Commission's notice and opportunity to comment at least 48 hours before the deadline to respond. If the time for response has been shortened due to a public health and safety finding, no extension will be granted except upon the Commission's own initiative. Requests for extension must explain with specificity why the extension is needed and how much additional time is required.

(2) It is the policy of the Commission to respond promptly to requests for extension of time.

§ 1101.23 Providing less than 15 calendar days' notice before disclosing information.

The Commission may disclose to the public information subject to section 6(b)(1) in a time less than 15 calendar days after providing notice to the manufacturer or private labeler in the following circumstances:

(a) *Manufacturer or private labeler agrees to lesser period or notifies the Commission that the firm has no comment or does not object to disclosure.* The Commission may disclose to the public information subject to section 6(b)(1) before the 15-day period expires when, after receiving the Commission's notice and opportunity to comment, the manufacturer or private labeler agrees to the earlier disclosure; notifies the Commission that the firm has no comment; or notifies the Commission that the firm does not object to disclosure.

(b) *Commission finds a lesser period is required.* Section 6(b)(1) provides that the Commission may publish a finding that the public health and safety requires a lesser period of notice than 15 calendar days. The Commission will publish the finding in the disclosure itself or elsewhere. The Commission may find that the public health and safety requires less than 15 calendar days' advance notice, for example, to warn the public quickly of danger from a product hazard or a potential hazard, or to correct product safety information released by third persons, which mischaracterizes statements made by the Commission about the consumer product or which attributes to the Commission statements about the consumer product that the Commission did not make.

§ 1101.24 Scope of comments Commission seeks.

(a) *Comment in regard to the information.* The section 6(b) opportunity to comment on information permits manufacturers and private labelers to furnish information and data to the Commission that will assist the agency in its evaluation of the accuracy of the information. A manufacturer or private labeler's submission, therefore, must be specific and should be accompanied by documentation, where available, if the comments are to assist the Commission in its evaluation of the information. Comments of a general nature, such as general suggestions or allegations that a document is inaccurate or that the Commission has not taken reasonable steps to assure accuracy, are not sufficient to assist the Commission in its evaluation of the information or to justify a claim of

inaccuracy. The weight accorded a manufacturer's or private labeler's comments on the accuracy of information and the degree of scrutiny the Commission will exercise in evaluating the information will depend on the specificity and completeness of the firm's comments and of the accompanying documentation. In general, specific comments that are accompanied by documentation will be given more weight than those that are non-specific and general in nature.

(b) *Claims of confidentiality.* If the manufacturer or private labeler believes the information involved cannot be disclosed because of section 6(a)(2) of the CPSA, 15 U.S.C. 2055(a)(2), which refers to information reported to or otherwise obtained by the Commission that contains or relates to a trade secret or other matter referred to in section 1905 of title 18 or subject to 5 U.S.C. 552(b)(4), the firm may make claims of confidentiality at the time it submits its comments to the Commission under this section 1101.24. Such claims must identify the specific information that the manufacturer or private labeler believes to be confidential or trade secret material or subject to 5 U.S.C. 552(b)(4) and must state with specificity the grounds on which the firm bases its claims (see Commission's Freedom of Information Act regulation, 16 CFR part 1015, particularly 16 CFR 1015.18).

(c) *Requests for nondisclosure of comments.* If a manufacturer or private labeler objects to the disclosure of its comments or a portion thereof, it must notify the Commission at the time the manufacturer or private labeler submits its comments and provide the basis for its request. If the manufacturer or private labeler objects to the disclosure of only a portion of its comments, the firm must identify with specificity those portions that it requests be withheld.

§ 1101.25 Notice of intent to disclose.

(a) *Notice to manufacturer or private labeler.* In accordance with section 6(b)(2) of the CPSA, if the Commission, after following the notice provisions of section 6(b)(1), determines that information claimed to be inaccurate by a manufacturer or private labeler in comments submitted under section 6(b)(1) should be disclosed because the Commission believes it has complied with section 6(b)(1), the Commission shall notify the manufacturer or private labeler that the Commission intends to disclose the information and identify the earliest time at which it intends to do so.

(b) The Commission will inform a manufacturer or private labeler of a product that is the subject of a public health and safety finding that the public health and safety requires less than 5 calendar days' advance notice either orally or in writing. If written notice is provided, the Commission, to the extent practicable, will transmit such notice via email or other electronic means.

§ 1101.26 Circumstances when the Commission does not provide notice and opportunity to comment.

(a) *Notice to the extent practicable.* Section 6(b)(1) requires that, ''to the extent practicable,'' the Commission must provide manufacturers and private labelers notice and opportunity to comment before disclosing information from which the public can ascertain readily their identity.

(b) *Circumstances when notice and opportunity to comment is not practicable.* Circumstances when notice and opportunity to comment is not practicable include, but are not necessarily limited to, the following:

(1) When the Commission has taken reasonable steps to assure that the manufacturer or private labeler of any consumer product to which the information pertains is out of business and has no identifiable successor.

(2) When the information is disclosed in testimony in response to an order of the court during litigation to which the Commission is not a party.

(3) When the Commission has been unable, after a diligent search, to obtain contact information for the manufacturer or private labeler of the consumer product to which the information pertains.

(4) When an extraordinary circumstance necessitates the immediate disclosure of information to protect the public health and safety while the Commission simultaneously pursues notification of the manufacturer or private labeler.

Subpart D—Reasonable Steps Commission Will Take To Assure Public Disclosure of Information Is Accurate, and That Disclosure Is Fair in the Circumstances and Reasonably Related To Effectuating the Purposes of the Acts It Administers

§ 1101.31 General requirements.

(a) *Inclusion of comments.* In disclosing any information under this section, the Commission may, and upon the written request of the manufacturer or private labeler shall, include any comments or other information or a summary thereof submitted by the manufacturer or private labeler, to the extent permitted by and subject to the requirements of section 6 of the CPSA.

(b) *Explanatory statement.* The Commission may accompany the disclosure of information subject to this subpart with an explanatory statement that makes the nature of the information disclosed clear to the public. The Commission also may accompany the disclosure with any other relevant information in the Commission's possession that places the disclosed information in context.

(c) *Disclosing materially more or materially different information.* If the Commission intends to disclose information, not previously disclosed, that in context does not disclose materially more or materially different information about the consumer product than what the Commission previously disclosed in accordance with the law, the Commission is not obligated to take any additional steps to assure accuracy unless the Commission has reason to question the accuracy of the information.

§ 1101.32 Reasonable steps to assure disclosure of information is accurate.

(a) The following types of actions are reasonable steps to assure the accuracy of information that the Commission proposes to disclose to the public:

(1) The Commission staff or a qualified person or entity outside the Commission (*e.g.,* someone with requisite training or experience, such as a fire marshal, a fire investigator, an electrical engineer, or an attending physician) conducts an investigation that yields or corroborates the information to be disclosed;

(2) The Commission staff conducts a technical, scientific, or other evaluation that yields or corroborates the information to be disclosed or the staff obtains a copy of such an evaluation conducted by a qualified person or entity;

(3) The Commission staff relies on a statement made under oath, or a similar statement enforceable under penalty of perjury (*e.g.,* 28 U.S.C. 1746), that yields or corroborates the information to be disclosed; or

(4) The person who submitted the information to the Commission confirms the information as accurate to the best of the submitter's knowledge and belief, provided that:

(i) The confirmation is made by the person injured or nearly injured in an incident involving the product;

(ii) The confirmation is made by a person who, on the basis of his or her own observation or experience, identifies an alleged safety-related defect in or problem with such a product even though no incident or injury associated with the defect or problem may have occurred;

(iii) The confirmation is made by an eyewitness to an injury or safety-related incident involving such a product;

(iv) The confirmation is made by an individual with requisite training or experience who has investigated and/or determined the cause of deaths, injuries or safety-related incidents involving such a product. Such persons would include, for example, a fire marshal, a fire investigator, an electrical engineer, an ambulance attendant, or an attending physician; or

(v) The confirmation is made by a parent or guardian of a child involved in an incident involving such a product, or by a person to whom a child is entrusted on a temporary basis.

(b) In addition to the reasonable steps specified in § 1101.32(a), the Commission may include the explanatory statement in § 1101.31(b) to assure the accuracy of the information proposed for disclosure.

(c) The steps set forth below are steps the Commission will take to analyze the accuracy of information that the Commission proposes to disclose to the public:

(1) The Commission will review each proposed disclosure of information which is susceptible of factual verification to assure that reasonable steps have been taken to assure accuracy in accordance with paragraphs (a) and (b).

(2) As described in subpart C, the Commission will provide a manufacturer or private labeler with a summary or text of the information the Commission proposes to disclose and will invite comment with respect to that information.

(3) If the Commission receives no comments or only general, non-specific comments claiming inaccuracy, the Commission will review the information in accordance with paragraph (a) and disclose it, generally without further investigating the accuracy of the information, if there is nothing on the face of the information that calls its accuracy into question.

(4) If a manufacturer or private labeler provides specific comments on the accuracy of the information that the Commission proposes to disclose, the Commission will review the information in light of the comments. The degree of review by the Commission and the weight accorded a manufacturer's or private labeler's comments will be directly related to the specificity and completeness of the firm's comments. Specific comments supported by documentation will be given more weight than non-specific comments. Further steps may be taken to determine the accuracy of the information if the Commission determines such action appropriate.

§ 1101.33 Reasonable steps to assure information disclosure is fair in the circumstances.

(a) The following types of actions are reasonable steps to assure disclosure of information to the public is fair in the circumstances:

(1) To the extent permitted by and subject to the requirements of section 6 of the CPSA, the Commission may, and upon the written request of the manufacturer or private labeler shall, accompany information disclosed to the public with the manufacturer's or private labeler's comments or other information or a summary thereof. If the manufacturer or private labeler objects to the disclosure of its comments or a portion thereof, the manufacturer or private labeler must provide the basis for its request that the comments not be disclosed.

(2) The Commission may accompany the disclosure of information with an explanatory statement that makes the nature of the information disclosed clear to the public. Subject to the requirements of section 6(b)(1) and other requirements of law, the Commission also may disclose any other relevant information in its possession that will assure disclosure is fair in the circumstances.

(b) The Commission will not disclose information when it determines that disclosure would not be fair in the circumstances. The following are examples of disclosures that generally would not be fair in the circumstances:

(1) Disclosure of information furnished by a manufacturer or private labeler to facilitate prompt remedial action or settlement of a case when the firm has a reasonable expectation that the information will be maintained by the Commission in confidence.

(2) Disclosure of staff notes or minutes of meetings to discuss or negotiate settlement agreements and of drafts of documents prepared during settlement negotiations, where the manufacturer or private labeler has a reasonable expectation that such written materials will be maintained by the Commission in confidence.

(3) Disclosure of a manufacturer's or private labeler's comments or other information or a summary thereof submitted under section 6(b)(1), when the Commission deems the firm has provided a sufficient basis for why the comments should not be disclosed.

§ 1101.34 Reasonable steps to assure information disclosure is ''reasonably related to effectuating the purposes of'' the Acts.

(a) The following types of actions are reasonable steps to assure that the disclosure of information to the public effectuates the purposes of the Acts:

(1) *Purposes of the CPSA.* The Commission will review information to determine whether disclosure is reasonably related to effectuating one or more of the specific purposes of the CPSA, including as set forth in sections 2(b) and 5, 15 U.S.C. 2051(b) and 2054.

(2) *Purposes of the FHSA, FFA, and PPPA.* The Commission will also review information concerning consumer products subject to the FHSA, FFA, or PPPA and to the Commission's specific functions under those acts to determine whether disclosure of information is reasonably related to effectuating the purposes of those acts.

(b) As part of its review of the information proposed for disclosure, the Commission will determine whether the information was prepared or maintained in the course of or to support an activity of the Commission designed to accomplish one or more of the statutory purposes.

Subpart E—Statutory Exceptions of Section 6(b)(4)

§ 1101.41 Generally.

This subpart describes and interprets the exceptions to the requirements of section 6(b)(1)–(b)(3) that are set forth in section 6(b)(4). These exceptions apply to:

(1) Information about any consumer product with respect to which the Commission has filed an action under section 12 of the CPSA (relating to imminently hazardous products);

(2) Information about any consumer product which the Commission has reasonable cause to believe is in violation of any consumer product safety rule or provision of the CPSA or similar rule or provision of any other act enforced by the Commission; or

(3) Information in the course of or concerning:

(i) a rulemaking proceeding under the Acts;

(ii) an adjudicatory proceeding under the Acts; or

(iii) any other administrative or judicial proceeding under the Acts.

§ 1101.42 Imminent hazard exception.

(a) *Statutory provision.* Section 6(b)(4)(A) provides that the requirements of section 6(b)(1)–(3) do not apply to public disclosure of ''information about any consumer

product with respect to which product the Commission has filed an action under section 12 (relating to imminently hazardous products).''

(b) *Scope of exception.* This exception applies once the Commission has filed an action under section 12 of the CPSA, 15 U.S.C. 2061, in a United States district court. Once the exception applies, information may be disclosed to the public without following the requirements of section 6(b)(1)–(3) if the information concerns or relates to the consumer product alleged to be imminently hazardous.

§ 1101.43 Section 6(b)(4)(A) exception.

Section 6(b)(4)(A) provides that the requirements of section 6(b)(1)–(3) do not apply to public disclosure of information about any consumer product which the Commission has reasonable cause to believe is in violation of any consumer product safety rule or provision of the CPSA or similar rule or provision of any other act enforced by the Commission. Once the exception applies, the Commission may disclose information to the public without following the requirements of section 6(b)(1)–(3) if the information concerning the consumer product is reasonably related to the violation.

§ 1101.44 Rulemaking proceeding exception.

(a) *Statutory provision.* Section 6(b)(4)(B) provides that the requirements of section 6(b)(1)–(3) do not apply to public disclosure of information ''in the course of or concerning a rulemaking proceeding (which shall commence upon the publication of an advance notice of proposed rulemaking or a notice of proposed rulemaking) * * * under this Act.''

(b) *Scope of exception.* This exception applies upon publication in the **Federal Register** of an advance notice of proposed rulemaking or, if no advance notice of proposed rulemaking is issued, upon publication in the **Federal Register** of a notice of proposed rulemaking, under any of the Acts. Once the exception applies, the Commission may publicly disclose information in the course of the rulemaking proceeding, which is presented during the proceeding, which is contained or referenced in the public record of the proceeding, or which concerns the proceeding, without regard to the requirements of section 6(b)(1)–(3). Documentation supporting the public record is also excepted from section 6(b)(1)–(3). A rulemaking proceeding includes a proceeding to consider issuing, amending, or revoking a rule.

(c) The phrase ''in the course of'' refers to information disclosed as part of the proceeding and may, therefore, include information generated before the proceeding began and later presented as part of the proceeding. A rulemaking proceeding ends once the Commission has published the final rule or a notice of termination of the rulemaking in the **Federal Register**.

(d) The phrase ''concerning'' refers to information about or addressing the proceeding both after the proceeding has begun and indefinitely thereafter. Therefore, the Commission may at any time publicly disclose information that describes or relates to the substance, process, or outcome of the proceeding. For example, Commissioners may publicly explain their individual votes and any decision rendered by issuing written opinions and making public statements.

§ 1101.45 Adjudicatory proceeding exception.

(a) *Statutory provision.* Section 6(b)(4)(B) provides that the requirements of section 6(b)(1)–(3) do not apply to public disclosure of ''information in the course of or concerning * * * [an] adjudicatory proceeding (which shall commence upon the issuance of a complaint) * * * under this Act.''

(b) *Scope of exception.* This exception applies once the Commission files a complaint under section 15(c) or (d), 17(a)(1) or (3), or 20 of the CPSA, 15 U.S.C. 2064(c) or (d), 2066(a)(1), or (3), or 2069; section 15 of the FHSA, 15 U.S.C. 1274; section 5(b) of the FFA, 15 U.S.C. 1194(b); or section 4(c) of the PPPA, 15 U.S.C. 1473(c). An adjudicatory proceeding ends when the Commission issues a final order, 16 CFR 1025.51–1025.58.

(c) The phrase ''in the course of'' refers to information disclosed as part of the adjudication, whether in documents filed or exchanged during discovery, or in testimony given in such proceedings, and may therefore, include disclosure during the adjudication of information generated before the adjudication began.

(d) The phrase ''concerning'' refers to information about or addressing the administrative adjudication, both once it begins and indefinitely thereafter. Therefore, the Commission may at any time publicly disclose information that describes or relates to the substance, process, or outcome of the proceeding. For example, (i) Commissioners may publicly explain their individual votes and any decision rendered by issuing written opinions and making public statements and (ii) the Commission may disclose information regarding the effectiveness of any corrective action, such as information on the number of products corrected as a result of a remedial action.

§ 1101.46 Other administrative or judicial proceeding exception.

(a) *Statutory provision.* Section 6(b)(4)(B) provides that the requirements of section 6(b)(1)–(3) do not apply to public disclosure of ''information in the course of or concerning any * * * other administrative or judicial proceeding under this Act.''

(b) *Scope of exception.* This exception applies to an administrative or judicial proceeding, other than a rulemaking or administrative adjudicatory proceeding, under the Acts. Proceedings within this exception include without limitation:

(1) A proceeding to act on a petition to start a rulemaking proceeding. This proceeding begins with the filing of a petition and ends when the petition is denied or, if granted, when the rulemaking proceeding begins.

(2) A proceeding to act on a request for exemption from a rule or regulation. This proceeding begins with the filing of a request for exemption and ends when the request is denied or, if granted, when the Commission takes the first step to implement the exemption, *e.g.,* when an amendment to the rule or regulation is proposed.

(3) A proceeding to issue a subpoena or general or special order. This proceeding begins with a staff request to the Commission to issue a subpoena or general or special order and ends once the request is granted or denied.

(4) A proceeding to act on a motion to quash or to limit a subpoena or general or special order. This proceeding begins with the filing with the Commission of a motion to quash or to limit and ends when the motion is granted or denied.

(5) Any judicial proceeding to which the Commission is a party. This proceeding begins when a complaint or other pleading is filed and ends when a final decision (including appeal) is rendered with respect to the Commission.

(6) Any administrative proceeding to which the Commission is a party, such as an administrative proceeding before the Merit Systems Protection Board or the Federal Labor Relations Authority. This proceeding begins and ends in accordance with the applicable regulations or procedures of the administrative body before which the proceeding is heard.

(7) A proceeding to obtain a retraction from the Commission pursuant to subpart F of these rules. This

proceeding begins with the filing with the Secretary of the Commission of a request for retraction and ends when the request is denied or, if granted, when the information is retracted.

(c) The phrase ''in the course of or concerning'' shall be interpreted consistent with § 1101.44 (c) and (d) or § 1101.45(c) and (d), as applicable.

Subpart F—Retraction

§ 1101.51 Commission interpretation.

(a) *Statutory provisions.* Section 6(b)(7) of the CPSA provides: ''If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product or class of consumer products, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner equivalent to that in which such disclosure was made, take reasonable steps to publish a retraction of such inaccurate or misleading information.''

(b) *Scope.* Section 6(b)(7) applies to information disclosed by the Commission, any member of the Commission, or any employee, agent, or representative, including contractor, of the Commission in an official capacity, in the course of administration of the Acts.

§ 1101.52 Procedure for retraction.

(a) *Retraction Upon Commission's Own Initiative or Request.* The Commission may publish a retraction of information under section 6(b)(7) upon the initiative of the Commission or upon the request of a manufacturer, private labeler, distributor, or retailer of a consumer product, in accordance with the procedures provided in this section.

(b) *Request for retraction.* Any manufacturer, private labeler, distributor, or retailer of a consumer product may request that the Commission publish a retraction if they believe the Commission, any member of the Commission, or any employee, agent, or representative, including contractor, of the Commission in an official capacity has, in the course of administration of the Acts, made public disclosure of inaccurate or misleading information, which reflects adversely upon the safety of any consumer product or class of consumer products, or the practices of a covered firm. The request must be in writing and sent via either electronic mail to *cpsc-os@cpsc.gov* or first class mail addressed to the Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814–4408.

(c) *Content of request.* A request that the Commission publish a retraction must include the following information to the extent it is reasonably available:

(1) The identity and relationship (*i.e.,* manufacturer, private labeler, distributor, or retailer) of the requester.

(2) The information disclosed for which retraction is requested, the date on which the information was disclosed, the manner in which it was disclosed, who disclosed it, the type of document (*e.g.,* letter, memorandum, news release) and any other relevant information the requester has to assist the Commission in identifying the information. A reproduction of the disclosure (*e.g.,* image, audio or video file, copy of document) should accompany the request, if practicable.

(3) A statement of the specific aspects of the information that the requester believes are inaccurate or misleading and reflect adversely upon the safety of a consumer product or class of consumer products, or the practices of a covered firm.

(4) A statement of the reasons the requester believes the information is inaccurate or misleading and reflects adversely upon the safety of a consumer product or class of consumer products, or the practices of a covered firm.

(5) A statement of the specific action the requester asks the Commission to take in publishing a retraction in a manner equivalent to that in which disclosure was made.

(6) Any additional data or information the requester believes is relevant.

(d) *Commission action on request.* The Commission will act expeditiously on any request that the Commission publish a retraction within 30 working days unless the Commission determines, for good cause, that a longer time period is appropriate. If the Commission finds that the Commission, any member of the Commission, or any employee, agent, or representative, including contractor, of the Commission in an official capacity has, in the course of administration of the Acts, made public disclosure of inaccurate or misleading information that reflects adversely upon the safety of a consumer product or class of consumer products, or the practices of a covered firm, the Commission will publish a retraction of information in a manner equivalent to that in which the disclosure was made. If publication in a manner equivalent to that in which the disclosure was made is not practicable or could result in further disclosure of the information, the Commission will publish a retraction or take other action in a manner that the Commission determines appropriate under the circumstances and consistent with the purposes of section 6(b)(7).

(e) *Notification to requester.* The Commission will promptly notify the requester in writing of the Commission's decision on the request to publish a retraction. Notification shall set forth the reasons for the Commission's decision.

Subpart G—Information Submitted Pursuant to Section 15(b) of the CPSA

§ 1101.61 Generally.

(a) *Generally.* In addition to the requirements of section 6(b)(1), section 6(b)(5) of the CPSA imposes further limitations on the disclosure of information submitted to the Commission pursuant to section 15(b) of the CPSA, 15 U.S.C. 2064(b).

(b) *Criteria for disclosure.* Under section 6(b)(5), the Commission shall not disclose to the public information that has been identified as submitted pursuant to section 15(b) and 16 CFR 1115.13. The Commission may disclose information submitted pursuant to section 15(b) in accordance with sections 6(a) and 6(b)(1)–(3) if:

(i) The Commission has issued a complaint under section 15(c) or (d) of the CPSA alleging that the product presents a substantial product hazard;

(ii) In lieu of proceeding against such product under section 15(c) or (d), the Commission has accepted in writing a remedial settlement agreement, including but not limited to, a corrective action plan or consent order, dealing with such product; or

(iii) The Commission publishes a finding that the public health and safety requires public disclosure with a lesser period of notice than is required by section 6(b)(1).

(c) *Disclosure upon consent.* The Commission may disclose information submitted pursuant to section 15(b) without following the requirements of section 6(a) or 6(b) if the person who submitted the information under section 15(b) agrees to its public disclosure.

§ 1101.62 Statutory exceptions to section 6(b)(5) requirements.

(a) *Scope.* The limitations established by section 6(b)(5) do not apply to the public disclosure of:

(1) Information with respect to a consumer product which is the subject of an action brought under section 12 (see § 1101.42);

(2) Information with respect to a consumer product which the Commission has reasonable cause to believe is in violation of any consumer

product safety rule or provision under the CPSA or similar rule or provision of any other act enforced by the Commission; or

(3) Information in the course of or concerning a judicial proceeding (see § 1101.45).

§ 1101.63 Information submitted pursuant to section 15(b) of the CPSA.

(a) Section 6(b)(5) applies to:

(1) Information provided to the Commission by a manufacturer, distributor, or retailer that has been identified by the manufacturer, distributor or retailer as submitted pursuant to section 15(b) and 16 CFR 1115.13;

(2) Any portions of documents generated by the Commission, any member of the Commission, or any employee, agent, or representative, including contractor, of the Commission in an official capacity that contain, summarize or otherwise reveal such information identified as submitted pursuant to section 15(b) and 16 CFR 1115.13; and

(3) Any oral communications made by the Commission, any member of the Commission, or any employee, agent, or representative, including contractor, of the Commission in an official capacity that reveal or refer to information identified as submitted pursuant to section 15(b) and 16 CFR 1115.13.

(b) Section 6(b)(5) does not apply to:

(1) Information independently obtained or prepared, or developed through subsequent investigation and verification, by the Commission, any member of the Commission, or any employee, agent, or representative, including contractor, of the Commission in an official capacity; or

(2) Information that is already available to the public, including but not limited to, information appearing in a company's press statements, websites, Frequently Asked Questions, product user manuals, sales materials, Securities and Exchange Commission filings, or other public statements or documents published or publicly disseminated by a manufacturer, distributor, or retailer.

Subpart H—Delegation of Authority to Information Group

§ 1101.71 Delegation of authority.

(a) *Delegation.* Pursuant to section 27(b)(10) of the CPSA, 15 U.S.C. 2076(b)(10), the Commission delegates to the General Counsel:

(1) The authority to render all decisions under this part concerning the disclosure of information subject to section 6(b) when the manufacturer or private labeler furnished section 6(b) comment, except as provided in paragraph (b); and

(2) The authority to make all decisions under this part concerning the disclosure of information under section 6(b) when the manufacturer or private labeler failed to furnish section 6(b) comment or has consented to disclosure, except as provided in paragraph (b).

(b) *Findings not delegated.* The Commission does not delegate its authority—

(1) To find, pursuant to section 6(b)(1) and § 1101.23(b) of this part, that the public health and safety requires less than 15 calendar days' advance notice of proposed disclosures of information;

(2) To find, pursuant to section 6(b)(2) and § 1101.25(b) of this part, that the public health and safety requires less than 5 calendar days' advance notice of its intent to disclose information claimed to be inaccurate; and

(3) To decide whether the Commission should take reasonable steps to publish a retraction of information in accordance with section 6(b)(7) and § 1101.52 of this part.

(c) Final agency action; Commission decision. A decision of the General Counsel on delegated authority under paragraph (a) shall not be appealable as of right to the Commission. However, the General Counsel may in his or her discretion refer an issue to the Commission for final decision.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

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