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Contents

Federal Register

Vol. 88, No. 216

Thursday, November 9, 2023

Separate Parts In This Issue

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 88, No. 216
Thursday, November 9, 2023

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31514; Amdt. No. 4085]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPS) and associated Takeoff Minimums and Obstacle Departure procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 9, 2023. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 9, 2023.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30. 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email *fr.inspection@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954–1139.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, 8260–15B, when required by an entry on 8260–15A, and 8260–15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the typed of SIAPS, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and

contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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

Lists of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on October 27, 2023.

Thomas J. Nichols,

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 30 November 2023

Noatak, AK, WTK/PAWN, RNAV (GPS) RWY 1, Orig–B
Noatak, AK, WTK/PAWN, RNAV (GPS) RWY 19, Orig–B
Lake Wales, FL, X07, RNAV (GPS) RWY 6, Amdt 2
Lake Wales, FL, X07, RNAV (GPS) RWY 24, Amdt 2
Sterling/Rockfalls, IL, KSQI, RNAV (GPS) RWY 7, Amdt 1A
Sterling/Rockfalls, IL, KSQI, RNAV (GPS) RWY 25, Amdt 1A
Calvert City, KY, M34, RNAV (GPS) RWY 28, Orig
Calvert City, KY, M34, Takeoff Minimums and Obstacle DP, Orig
Marion, KY, KGDA, RNAV (GPS) RWY 7, Amdt 4
Marion, KY, KGDA, RNAV (GPS) RWY 25, Amdt 3A
Prestonsburg, KY, SJS, RNAV (GPS) RWY 3, Amdt 2
Prestonsburg, KY, KSJS, RNAV (GPS) RWY 21, Amdt 3
Prestonsburg, KY, KSJS, Takeoff Minimums and Obstacle DP, Amdt 3
Boston, MA, KBOS, RNAV (GPS) X RWY 22L, Amdt 1E
Boston, MA, KBOS, RNAV (GPS) Y RWY 22L, Orig
Ocean City, MD, KOXB, LOC RWY 32, Orig
Ocean City, MD, KOXB, LOC RWY 32, Orig, CANCELED
Ocean City, MD, KOXB, RNAV (GPS) RWY 14, Orig
Ocean City, MD, KOXB, RNAV (GPS) RWY 14, Orig–H, CANCELED
Ocean City, MD, KOXB, RNAV (GPS) RWY 32, Orig
Ocean City, MD, KOXB, RNAV (GPS) RWY 32, Orig–D, CANCELED
Ocean City, MD, KOXB, Takeoff Minimums and Obstacle DP, Amdt 4
Greenville, ME, 3B1, RNAV (GPS) RWY 32, Orig
Lincoln, ME, KLRG, RNAV (GPS) RWY 16, Amdt 1
Lincoln, ME, LRG, RNAV (GPS) RWY 34, Amdt 2
Lincoln, ME, KLRG, Takeoff Minimums and Obstacle DP, Amdt 4
Hancock, MI, CMX, ILS OR LOC RWY 32, Amdt 15C
Hancock, MI, CMX, LOC BC RWY 14, Amdt 12C
Hancock, MI, KCMX, RNAV (GPS) RWY 14, Amdt 1B
Hancock, MI, KCMX, RNAV (GPS) RWY 32, Orig–C
Hancock, MI, KCMX, Takeoff Minimums and Obstacle DP, Amdt 3B
Hancock, MI, KCMX, VOR RWY 25, Amdt 17E
Traverse City, MI, KTVC, ILS OR LOC RWY 10, Orig
Mankato, MN, MKT, COPTER ILS Z OR LOC Z RWY 33, Amdt 1
Mankato, MN, MKT, ILS Y OR LOC Y RWY 33, Amdt 2
Mankato, MN, MKT, RNAV (GPS) RWY 4, Amdt 1
Mankato, MN, MKT, RNAV (GPS) RWY 15, Amdt 1
Mankato, MN, MKT, RNAV (GPS) RWY 22, Amdt 1
Mankato, MN, MKT, RNAV (GPS) RWY 33, Amdt 1
Mankato, MN, MKT, VOR RWY 15, Amdt 7B, CANCELED
Owatonna, MN, KOWA, ILS OR LOC RWY 30, Amdt 4
Owatonna, MN, KOWA, RNAV (GPS) RWY 12, Amdt 2
Waseca, MN, ACQ, RNAV (GPS) RWY 15, Amdt 2
Statesville, NC, KSVH, RNAV (GPS) RWY 10, Amdt 2
Statesville, NC, KSVH, Takeoff Minimums and Obstacle DP, Amdt 1
Readington, NJ, N51, RNAV (GPS) RWY 4, Amdt 1
Readington, NJ, N51, Takeoff Minimums and Obstacle DP, Amdt 2
Readington, NJ, N51, VOR RWY 4, Amdt 2
Hamilton, OH, HAO, RNAV (GPS) RWY 11, Amdt 1C
Hamilton, OH, HAO, RNAV (GPS) RWY 29, Amdt 2A
Johnstown, PA, KJST, ILS OR LOC RWY 33, Amdt 7C
Johnstown, PA, KJST, VOR Z RWY 15, Amdt 7B
Shamokin, PA, N79, RNAV (GPS) RWY 8, Amdt 1
Shamokin, PA, N79, RNAV (GPS) RWY 26, Amdt 1
Shamokin, PA, N79, VOR RWY 8, Amdt 4

[FR Doc. 2023–24659 Filed 11–8–23; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31515; Amdt. No. 4086]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective November 9, 2023. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 9, 2023.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, email *fr.inspection@nara.gov* or go to: *https://www.archives.gov/federal-register/cfr/ibr-locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg. 26, Room 217, Oklahoma City, OK 73099. Telephone: (405) 954–1139.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on October 27, 2023.

Thomas J. Nichols,

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport name	FDC No.	FDC date	Procedure name
30–Nov–23	TX	Jasper	Jasper County/Bell Fld	3/0837	10/2/23	RNAV (GPS) RWY 18, Orig–A.
30–Nov–23	TX	Jasper	Jasper County/Bell Fld	3/0838	10/2/23	RNAV (GPS) RWY 36, Orig–C.

AIRAC date	State	City	Airport name	FDC No.	FDC date	Procedure name
30–Nov–23	CT	Bridgeport	Bridgeport/Sikorsky	3/3119	10/11/23	ILS OR LOC RWY 6, Amdt 10B.
30–Nov–23	CT	Bridgeport	Bridgeport/Sikorsky	3/3122	10/11/23	RNAV (GPS) RWY 29, Amdt 2B.
30–Nov–23	CT	Bridgeport	Bridgeport/Sikorsky	3/3123	10/11/23	RNAV (GPS) RWY 24, Amdt 1B.
30–Nov–23	CT	Bridgeport	Bridgeport/Sikorsky	3/3125	10/11/23	RNAV (GPS) RWY 6, Amdt 1B.
30–Nov–23	MI	Hancock	Houghton County Meml	3/6218	10/16/23	RNAV (GPS) RWY 25, Amdt 1B.
30–Nov–23	KS	Manhattan	Manhattan Rgnl	3/6770	10/19/23	ILS OR LOC RWY 3, Amdt 8.
30–Nov–23	MA	Plymouth	Plymouth Muni	3/8906	10/20/23	RNAV (GPS) RWY 33, Amdt 1.
30–Nov–23	MA	Plymouth	Plymouth Muni	3/8908	10/20/23	RNAV (GPS) RWY 15, Orig–A.

[FR Doc. 2023–24660 Filed 11–8–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 864

[Docket No. FDA–2023–N–4487]

Medical Devices; Hematology and Pathology Devices; Classification of the Container System for the Processing and Storage of Red Blood Cell Components Under Reduced Oxygen Conditions

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Final amendment; final order.

SUMMARY: The Food and Drug Administration (FDA, Agency, or we) is classifying the container system for the processing and storage of Red Blood Cell components under reduced oxygen conditions into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the classification of the container system for the processing and storage of Red Blood Cell components under reduced oxygen conditions. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices.

DATES: This order is effective November 9, 2023. The classification was applicable on September 15, 2023.

FOR FURTHER INFORMATION CONTACT: Karen Fikes, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the container system for the processing and storage of Red Blood Cell components under reduced oxygen conditions as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as ''postamendments devices'' because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (see 21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate device by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807).

FDA may also classify a device through ''De Novo'' classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act; (see also 21 CFR part 860, subpart D). Section 207 of the Food and Drug Administration Modernization Act of 1997 (Pub. L. 105–115) established the first procedure for De Novo classification. Section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144) modified the De Novo application process by adding a second procedure. A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA is required to classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see section 513(f)(2)(B)(i) of the FD&C Act). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application to market a substantially equivalent device (see section 513(i) of the FD&C Act, defining ''substantial equivalence''). Instead, sponsors can use the 510(k) process, when necessary, to market their device.

II. De Novo Classification

On January 5, 2022, FDA received Hemanext, Inc.'s request for De Novo classification of the Hemanext One. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls,

provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on September 15, 2023, FDA issued an order to the requester classifying the device into class II. In this final order, FDA is codifying the classification of the device by adding 21 CFR 864.9115.[1] We have named the generic type of device container system for the processing and storage of Red Blood Cell components under reduced oxygen conditions, identified as a device intended for medical purposes that is used to process and store Red Blood Cell components and reduce oxygen levels in the storage environment.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—CONTAINER SYSTEM FOR THE PROCESSING AND STORAGE OF RED BLOOD CELL COMPONENTS UNDER REDUCED OXYGEN CONDITIONS RISKS TO HEALTH AND MITIGATION MEASURES

Identified risks to health	Mitigation measures
Toxicity that can result from contact of the component materials of the device with the red blood cells or patient's body.	Biocompatibility evaluation.
Toxicity of leached materials, or residual chemical sterilant, when in contact with red blood cells or transfused to patient.	Extractables and leachables testing.
Infection	Sterilization validation; Endotoxin testing; and Container closure evaluation.
Transfusion of poor quality red blood cells because of inadequate storage conditions or device malfunction.	Nonclinical and clinical studies; Shelf-life testing; and Performance testing.
Blood exposure because of device malfunction	Performance testing.
Transfusion of poor quality red blood cells due to processing of Red Blood Cells components collected from donors with hemoglobin S.	Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. For a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act. At the time of classification, container system for the processing and storage of Red Blood Cell components under reduced oxygen conditions is for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met.

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations and guidance. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). The collections of information in 21 CFR part 860, subpart D, regarding De Novo classification have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; the collections of information in 21 CFR part 820, regarding quality system regulation, have been approved under OMB control number 0910–0073; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 864

Blood, Medical devices, Packaging and containers.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 864 is amended as follows:

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

■ 1. The authority citation for part 864 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 864.9115 to subpart J to read as follows:

§ 864.9115 Container system for the processing and storage of Red Blood Cell components under reduced oxygen conditions.

(a) *Identification.* A container system for the processing and storage of Red Blood Cell components under reduced oxygen conditions is a device intended for medical purposes that is used to process and store Red Blood Cell components and reduce oxygen levels in the storage environment.

(b) *Classification.* Class II (special controls). The special controls for this device are:

[1] FDA notes that the ''ACTION'' caption for this final order is styled as ''Final amendment; final order,'' rather than ''Final order.'' Beginning in December 2019, this editorial change was made to indicate that the document ''amends'' the Code of Federal Regulations. The change was made in accordance with the Office of Federal Register's (OFR) interpretations of the Federal Register Act (44 U.S.C. chapter 15), its implementing regulations (1 CFR 5.9 and parts 21 and 22), and the Document Drafting Handbook.

(1) The intended use of the device must specify:

(i) The Red Blood Cell components that can be processed and stored including acceptable anticoagulants and additive solutions;

(ii) The hold time after Red Blood Cell component collection;

(iii) The processing capacity (volume) of the device; and

(iv) The storage temperature and dating period of processed Red Blood Cell components.

(2) Studies must demonstrate that the device is biocompatible and include detailed documentation of the biocompatibility evaluation.

(3) Performance testing and nonclinical studies must include a detailed study of leached materials extracted under conditions similar to clinical usage of the device, and a toxicologic risk assessment of those extracted or leached materials.

(4) Performance testing must support sterility of the device and include sterilization validation, endotoxin testing, and container closure integrity evaluation.

(5) Nonclinical and clinical studies must include evaluation of red blood cell quality throughout the duration of storage based on in vitro and in vivo studies, including hemolysis and red blood cell survival and recovery.

(6) Performance studies must include:

(i) Detailed documentation of functional and mechanical testing, including evaluation of oxygen and, if applicable, carbon dioxide levels during Red Blood Cell components storage; and

(ii) Detailed documentation of device shelf-life testing demonstrating continued sterility, package integrity, and functionality over the identified shelf life.

(7) The labeling must include a contraindication against processing Red Blood Cell components collected from donors with hemoglobin S.

Dated: November 3, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–24717 Filed 11–8–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2023–0783]

Special Local Regulations; OPA World Championships; Gulf of Mexico; Englewood, FL

AGENCY: Coast Guard, DHS.

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce special local regulations for the OPA World Championships to provide for the safety of life on navigable waterways during this event. Our regulation for marine events within the Seventh Coast Guard District identifies the regulated area for this event in Englewood Beach, FL. During the enforcement periods, the operator of any vessel in the regulated area must comply with directions from the Patrol Commander or any designated representative.

DATES: The regulations in 33 CFR 100.703 will be enforced daily from 8 a.m. until 6 p.m. on November 18, 2023, through November 19, 2023, for the location identified in Item 8 in table 1 to § 100.703.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email Marine Science Technician First Class Mara Brown, Sector St. Petersburg Prevention Department, Coast Guard; telephone 813–228–2191, email *mara.j.brown@uscg.mil.*

SUPPLEMENTARY INFORMATION: *The Coast Guard will enforce the special local regulations in 33 CFR 100.703 for the OPA World Championships identified in Table 1 to § 100.703, Item No. 8, from 8 a.m. until 6 p.m., on November 18, 2023, through November 19, 2023. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for recurring marine events, Sector St. Petersburg, § 100.703, Table 1 to § 100.703, Item No. 8, specifies the locations of the regulated area for the OPA World Championships which encompasses portions of the Gulf of Mexico near Englewood, FL. During the enforcement periods, as reflected in § 100.703(c), if you are the operator of a vessel in the regulated area you must comply with directions from the Patrol Commander or any designated representative.*

In addition to this notice of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via the Local Notice to Mariners, marine information broadcasts, or both.

Dated: November 2, 2023.

Michael P. Kahle,

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

[FR Doc. 2023–24787 Filed 11–8–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2023–0883]

Safety Zone; Military Ocean Terminal Concord Safety Zone, Suisun Bay, Military Ocean Terminal Concord, CA

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone in the navigable waters of Suisun Bay, off Concord, CA, in support of explosive on-loading to Military Ocean Terminal Concord (MOTCO) on November 13, 2023, through November 20, 2023. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. The safety zone is open to all persons and vessels for transitory use, but vessel operators desiring to anchor or otherwise loiter within the safety zone must obtain the permission of the Captain of the Port San Francisco or a designated representative. All persons and vessels operating within the safety zone must comply with all directions given to them by the Captain of the Port San Francisco or a designated representative.

DATES: The regulations in 33 CFR 165.1198 will be enforced from 12:01 a.m. on November 13, 2023, until 11:59 p.m. on November 20, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call, or email LT Abby Hamann, U.S. Coast Guard Sector San Francisco, Waterways Management Division, at 415–399–3585, *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in 33 CFR 165.1198 for the Military Ocean Terminal Concord, CA (MOTCO) regulated area from 12:01 a.m. on November 13, 2023, until 11:59 p.m. on

November 20, 2023, or as announced via marine local broadcasts. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. The regulation for this safety zone, § 165.1198, specifies the location of the safety zone which encompasses the navigable waters in the area between 500 yards of MOTCO Pier in position 38°03′30″ N, 122°01′14″ W and 3,000 yards of the pier. During the enforcement periods, as reflected in § 165.1198(d), if you are the operator of a vessel in the regulated area you must comply with the instructions of the COTP or the designated on-scene patrol personnel. Vessel operators desiring to anchor or otherwise loiter within the safety zone must contact Sector San Francisco Vessel Traffic Service at 415–556–2760 or VHF Channel 14 to obtain permission.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via marine information broadcasts.

Dated: November 4, 2023.

Taylor Q. Lam,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2023–24845 Filed 11–8–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0861]

RIN 1625–AA87

Security Zones; San Francisco Bay, San Francisco, CA

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary security zones in the navigable waters of the San Francisco Bay, and the Pacific Ocean within the San Francisco Captain of the Port (COTP) zone. The security zones are along San Francisco Pier 15/17, approximately 1,000 yards from shore, and the Legion of Honor, approximately 450 yards from shore. The security zones are necessary to protect the harbors, ports, and waterfront facilities during a visit from high-ranking government officials and members of the official party. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port San Francisco or a designated representative.

DATES: This rule is effective from November 15, 2023, through November 18, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0861 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 rule, call or email LT William Harris, U.S. Coast Guard Sector San Francisco, Waterways Management Division; telephone 415–399–7443, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The Coast Guard was not notified with ample time to allow for public comment. The visit by high-ranking government officials and members of their official party will conclude prior to the publication and completion of a comment period. Additionally, it is impracticable to publish a NPRM because the visit is scheduled to occur from November 15 through November 16, 2023, and we must establish these security zones by those dates. We lack sufficient time to solicit comments and review prior to issuing a final action.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be impracticable because action is needed starting November 15, 2023, to provide for the protection of high-ranking government officials, members of their official party, and the security of harbors, ports, and waterfront facilities, and the mitigation of subversive acts.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70051 and 70124. The Captain of the Port San Francisco (COTP) has determined that high-ranking government officials and members of their official party plan to visit the San Francisco area and will be in the areas of San Francisco Pier 15/17, and the Legion of Honor. These are located adjacent to U.S. navigable waters in the San Francisco COTP Zone. This rule is needed to ensure the safety of the high-ranking government officials and members of their official party.

IV. Discussion of the Rule

This rule establishes two security zones on November 15 and November 16, 2023. These security zones will cover all navigable waters of the San Francisco Bay and Pacific Ocean, from surface to bottom, and be for the areas and times described below or as otherwise noted by Marine Information Broadcast, and will be referred to as Zones A, and B.

Zone A is a security zone along San Francisco Pier 15/17, approximately 1,000 yards from shore. Zone A will be within the area formed by connecting the following latitude and longitude points in the following order: 37°48′29.13″ N, 122°24′10.27″ W; thence to 37°48′34.68″ N, 122°24′3.44″ W; thence to 37°48′39.4″ N, 122°23′47.2″ W; thence to 37°48′28.4″ N, 122°23′19.04″ W; thence to 37°48′9.85″ N, 122°23′10.34″ W; thence to 37°47′47.89″ N, 122°23′41.35″ W; thence along the shore and piers to the point of beginning. This zone will be in effect from 6 a.m. through 11:59 p.m. on November 15, 2023.

Zone B is a security zone along the Legion of Honor in the San Francisco Bay, approximately 450 yards from shore. Zone B will be within the area formed by connecting the following latitude and longitude points in the following order: 37°47′17.72″ N, 122°30′21.74″ W; thence to 37°47′30.86″ N, 122°30′13.6″ W; thence to 37°47′30.87″ N, 122°29′54.91″ W; thence to 37°47′14.68″ N, 122°29′45.43″ W; thence along the shore to the point of beginning. This zone will be in effect

from 8 a.m. until 9 p.m. on November 16, 2023.

The duration of these zones is intended to protect the harbors, ports, and waterfront facilities during the high-ranking government officials' visit to the local area and to ensure the safety of the official party. No vessel or person will be permitted to enter the security zones except for authorized support vessels, aircraft, and support personnel, or other vessels authorized by 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 section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the sizes, locations, and durations of the security zones. The effect of this rule will not be significant because local waterways users will be notified by marine information broadcast and on-scene enforcement to ensure the security zones will result in minimum impact. Additionally, vessels can request permission to transit the security zones in order to mitigate any potential impacts.

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 security zones 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 security zones in effect during a period of two days in various locations, that will be enforced for less than 30 hours during those two days. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

■ 2. Add § 165.T11–145 to read as follows:

§ 165.T11–145 Security Zones: San Francisco Bay and Pacific Ocean, San Francisco, CA.

(a) *Location.* The following areas are security zones. These security zones will cover all navigable waters of the San Francisco Bay and Pacific Ocean, from surface to bottom, within the areas described below. All coordinates are based on North American datum (NAD 83). (1) Zone A will be within the area formed by connecting the following latitude and longitude points in the following order: 37°48′29.13″ N, 122°24′10.27″ W; thence to 37°48′34.68″ N, 122°24′3.44″ W; thence to 37°48′39.4″ N, 122°23′47.2″ W; thence to 37°48′28.4″ N, 122°23′19.04″ W; thence to 37°48′9.85″ N, 122°23′10.34″ W; thence to 37°47′47.89″ N, 122°23′41.35″ W; thence along the shore and piers to the point of beginning.

(2) Zone B will be within the area formed by connecting the following latitude and longitude points in the following order: 37°47′17.72″ N, 122°30′21.74″ W; thence to 37°47′30.86″ N, 122°30′13.6″ W; thence to 37°47′30.87″ N, 122°29′54.91″ W; thence to 37°47′14.68″ N, 122°29′45.43″ W; thence along the shore to the point of beginning.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, and a Federal, State, or local officer designated by or assisting the Captain of the Port (COTP) San Francisco in the enforcement of the security zones.

(c) *Regulations.* (1) Under the general security zone regulations in subpart D of this part, you may not enter the security zones described in paragraph (a) of the sections unless authorized by the COTP or the COTP's designated representative.

(2) The security zones are closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) To seek permission to enter, contact the COTP or the COTP's designated representative by VHF Marine Radio channel 21A or through the 24-hour Command Center at telephone (415) 399–3547. Those in the security zones must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced on the dates November 15, 2023, through November 16, 2023, at the times listed below or otherwise noted by Marine Information Broadcast.

(1) Zone A will be enforced from 6 a.m. until 11:59 p.m. on November 15, 2023.

(2) Zone B will be enforced from 8 a.m. until 9 p.m. on November 16, 2023.

Dated: November 4, 2023.

Taylor Q. Lam,

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

[FR Doc. 2023–24848 Filed 11–8–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0852]

RIN 625–AA87

Security Zones; San Francisco Bay, San Francisco, CA

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two temporary security zones in the navigable waters of the San Francisco Bay, San Francisco, CA within the San Francisco Captain of the Port (COTP) zone. The security zones are along U.S. Highway 101 North from Oyster Point to Candlestick Point, and San Francisco Pier 27/29, approximately 200 yards from shore. The security zones are necessary to protect the harbors, ports, and waterfront facilities during a visit from high-ranking government officials and members of their official party. Entry of vessels or persons into these zones is prohibited unless specifically authorized by the Captain of the Port San Francisco or a designated representative.

DATES: This rule is effective from November 14, 2023 through November 18, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0852 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 rule, call or email LT Abigail Hamann, U.S. Coast Guard Sector San Francisco, Waterways Management Division; telephone 415–399–3585, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable and contrary to the public interest. The Coast Guard was not notified with ample time to allow for public comment. The visit by high-ranking government officials and members of their official party will conclude prior to the publication and completion of a comment period. Additionally, it is impracticable to publish a NPRM because the visit is scheduled to occur from November 14 through November 18, 2023, and we must establish these security zones by those dates. We lack sufficient time to solicit comments and review prior to issuing a final action.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be impracticable because action is needed starting November 14, 2023, to protect high-ranking government officials, members of their official party, the security of harbors, ports, and waterfront facilities, and mitigate potential subversive acts.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70051 and 70124. High-ranking government officials and members of their official party plan to visit the San Francisco area and will be in the areas of U.S. Highway 101 North from Oyster Point to

Candlestick Point, and San Francisco Pier 27/29. These are located adjacent to U.S. navigable waters in the San Francisco COTP zone. The Captain of the Port San Francisco (COTP) has determined that these security zones are needed to ensure the safety of the high-ranking government officials and members of their official party.

IV. Discussion of the Rule

This rule establishes two security zones from November 14 through November 18, 2023. These security zones will cover all navigable waters of the San Francisco Bay, from surface to bottom, and be for the areas and times described below or as otherwise noted by Marine Information Broadcast, and will be referred to as Zones A, and B.

Zone A is along U.S. Highway 101 North from Oyster Point to Candlestick Point, San Francisco Pier 27/29, approximately 200 yards from shore. Zone A is within the area formed by connecting the following latitude and longitude points in the following order: 37°42′28.8″ N, 122°21′45.0″ W; thence to 37°42′31.0″ N, 122°22′27.0″ W; thence along the shore to 37°40′37.5″ N, 122°22′45.0″ W; thence to 37°40′20.4″ N, 122°22′10.6″ W and thence to the point of beginning. This zone will be in effect from 12:01 a.m. on November 14, 2023, through 11:59 p.m. on November 18, 2023.

Zone B will be around San Francisco Pier 27/29 and approximately 200 yards from shore. Zone B is within the area formed by connecting the following latitude and longitude points in the following order: 37°48′23.49″ N, 122°24′12.1″ W; thence to 37°48′28.36″ N, 122°24′8.48″ W; thence to 37°48′34.68″ N, 122°24′3.44″ W; thence to 37°48′29.59″ N, 122°23′51.5″ W; thence to 37°48′16.79″ N, 122°23′54.88″ W; thence along the shore and piers to the point of beginning. This zone will be in effect 12:01 a.m. on November 14, 2023, through 11:59 p.m. on November 18, 2023.

The duration of these zones is intended to protect the harbors, ports, and waterfront facilities during the high-ranking government officials' visit to the local area and to ensure the safety of the official party. No vessel or person will be permitted to enter the security zone except for authorized support vessels, aircraft, and support personnel, or other vessels authorized by 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 section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the sizes, locations, and durations of the security zones. The effect of this rule will not be significant because local waterways users will be notified by marine information broadcast and on-scene enforcement to ensure the security zones will result in minimum impact.

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 security zones 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 security zones in effect during a period of five days in various locations, that will be enforced for the entirety of those five days. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

■ 2. Add § 165.T11–144 to read as follows:

§ 165.T11–144 Security Zones: San Francisco Bay, San Francisco, CA.

(a) *Location.* The following areas are security zones. These security zones will cover all navigable waters of the San Francisco Bay, from surface to bottom, within the areas described below. All coordinates are based on North American datum (NAD 83).

(1) Zone A is within the area formed by connecting the following latitude and longitude points in the following order: 37°42′28.8″ N, 122°21′45.0″ W; thence to 37°42′31.0″ N, 122°22′27.0″ W; thence along the shore to 37°40′37.5″ N, 122°22′45.0″ W; thence to 37°40′20.4″ N, 122°22′10.6″ W and thence to the point of beginning.

(2) Zone B is within the area formed by connecting the following latitude and longitude points in the following order: 37°48′23.49″ N, 122°24′12.1″ W; thence to 37°48′28.36″ N, 122°24′8.48″ W; thence to 37°48′34.68″ N, 122°24′3.44″ W; thence to 37°48′29.59″ N, 122°23′51.5″ W; thence to 37°48′16.79″ N, 122°23′54.88″ W; thence along the shore and piers to the point of beginning.

(b) *Definitions.* As used in this sections, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, and a Federal, State, or local officer designated by or assisting the Captain of the Port (COTP) San Francisco in the enforcement of the security zones.

(c) *Regulations.* (1) Under the general security zone regulations in subpart D of this part, you may not enter the security zones described in paragraph (a) of the sections unless authorized by the COTP or the COTP's designated representative.

(2) The security zones are closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) To seek permission to enter, contact the COTP or the COTP's designated representative by VHF Marine Radio channel 21A or through the 24-hour Command Center at telephone (415) 399–3547. Those in the security zones must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced on the dates November 14, 2023, through November 18, 2023, at the times listed below or otherwise noted by Marine Information Broadcast.

(1) Zone A will be enforced from 12:01 a.m. on November 14, 2023, until 11:59 p.m. on November 18, 2023.

(2) Zone B will be enforced from 12:01 a.m. on November 14, 2023, until 11:59 p.m. on November 18, 2023.

Dated: November 4, 2023.

Taylor Q. Lam,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2023–24849 Filed 11–8–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0788]

RIN 1625–AA00

Safety Zone; Hillsborough Bay, Tampa, FL

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of Tampa Bay between the Tampa Convention Center and the Tampa General Hospital at the base of Seddon Channel. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the police exercise. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port, St. Petersburg or a designated representative.

DATES: This rule is effective from 7 a.m. through 3 p.m. on November 29, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0788 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 rule, call or email Marine Science Technician First Class Mara J. Brown, Sector St. Petersburg Prevention Department, Coast Guard; telephone 813–228–2191, email *Mara.J.Brown@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good

cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it would be impracticable. Immediate action is needed to protect vessels, and the marine environment in small portion of the Hillsborough Bay within the safety zone while the exercise is being conducted. The Coast Guard lacks sufficient time to provide for a comment period and then consider those comments before issuing the rule since this rule is needed by November 29, 2023.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed in order to protect vessels, and the marine environment in small portion of the Hillsborough Bay within the safety zone while the exercise is being conducted.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034. The Captain of the Port St Petersburg (COTP) has determined that potential hazards associated with the police on November 29, 2023, will be a safety concern for anyone within the waters of the Tampa Convention Center and Tampa General Hospital. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the exercise is being conducted.

IV. Discussion of the Rule

This rule establishes a safety zone from 7 a.m. until 3 p.m. on November 29, 2023. The safety zone will cover all navigable waters between the Tampa Convention Center and the Tampa General Hospital at the base of Seddon Channel. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the Tampa Police exercise is being conducted. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. Vessels may be directed through the safety zone by on scene law enforcement personnel.

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 section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). 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, duration, and time-of-day of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small, designated area where the Hillsborough River and Seddon Channel meet. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via BHF–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 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 safety zone 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 safety zone lasting only 8 hours during the police exercise. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

■ 2. Add § 165.T07–0788 to read as follows:

§ 165.T07–0788 Safety Zone; Hillsborough River, Tampa, FL.

(a) *Location.* The following area is a safety zone: All navigable waters of Hillsborough Bay, from surface to bottom, encompassed by a line connecting the following points: 27°56′16″ N, 082°27′40″ W, thence to position 27°56′18″ N, 082°27′43″ W, thence to position 27°56′30″ N, 082°27′33″ W, thence to position 27°56′30″ N, 082°27′29″ W, thence to position 27°56′25″ N, 082°27′17″ W, thence to position 27°56′22″ N, 082°27′16″ W, thence to position 27°56′13″ N, 082°27′19″ W, thence to position 27°56′12″ N, 082°27′24″ W, thence to position 27°56′23″ N, 082°27′32″ W, and along the shoreline back to the beginning point. These coordinates are based on World Geodetic System (WGS 84).

(b) *Definitions.* As used in this section, designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and local officer designated by or assisting the Captain of the Port St. Petersburg (COTP) in the enforcement of the safety zone.

(c) *Regulations.*

(1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter, contact the COTP or the COTP's representative via VHF radio on channel 16. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from 7 a.m. until 3 p.m. on November 29, 2023.

Dated: November 2, 2023.

Michael P. Kahle,

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

[FR Doc. 2023–24791 Filed 11–8–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2023–0884]

Safety Zone; Military Ocean Terminal Concord Safety Zone, Suisun Bay, Military Ocean Terminal Concord, CA

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone in the navigable waters of Suisun Bay, off Concord, CA, in support of explosive on-loading to Military Ocean Terminal Concord (MOTCO) on November 7, 2023, through November 10, 2023. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. The safety zone is open to all persons and vessels for transitory use, but vessel operators desiring to anchor or otherwise loiter within the safety zone must obtain the permission of the Captain of the Port San Francisco or a designated representative. All persons and vessels operating within the safety zone must comply with all directions given to them by the Captain of the Port San Francisco or a designated representative.

DATES: The regulations in 33 CFR 165.1198 will be enforced from 12:01 a.m. on November 7, 2023, until 11:59 p.m. on November 10, 2023.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call, or email LT Abby Hamann, U.S. Coast Guard Sector San Francisco, Waterways Management Division, at 415–399–3585, *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in 33 CFR 165.1198 for the Military Ocean Terminal Concord, CA (MOTCO) regulated area from 12:01 a.m. on November 7, 2023, until 11:59 p.m. on November 10, 2023, or as announced via marine local broadcasts. This safety zone is necessary to protect personnel, vessels, and the marine environment from potential explosion within the explosive arc. The regulation for this safety zone, § 165.1198, specifies the location of the safety zone which encompasses the navigable waters in the area between 500 yards of MOTCO Pier in position 38°03′30″ N, 122°01′14″ W and 3,000 yards of the pier. During the enforcement periods, as reflected in § 165.1198(d), if you are the operator of a vessel in the regulated area you must comply with the instructions of the COTP or the designated on-scene patrol personnel. Vessel operators desiring to anchor or otherwise loiter within the safety zone must contact Sector San Francisco Vessel Traffic Service at 415–556–2760 or VHF Channel 14 to obtain permission.

In addition to this notification of enforcement in the **Federal Register**, the Coast Guard plans to provide notification of this enforcement period via marine information broadcasts.

Dated: November 4, 2023.

Taylor Q. Lam,

Captain, U.S. Coast Guard, Captain of the Port San Francisco.

[FR Doc. 2023–24846 Filed 11–8–23; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2022–0648, FRL–11358–02–R2]

Approval and Promulgation of Implementation Plans; New York; Elements of the 2008 and 2015 Ozone National Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New York for purposes of certifying and meeting the requirements for Reasonably Available Control Technology (RACT) for the Serious classification of the 2008 and Moderate classification of the 2015 8-hour Ozone National Ambient Air Quality Standards (NAAQS). The EPA is also approving that this SIP revision fulfills SIP requirements pertaining to the Ozone Transport Region (OTR) for the 2015 Ozone NAAQS. The EPA is approving the demonstration portion of the comprehensive SIP revision submitted by New York that certifies that the State has satisfied the requirements for an Ozone nonattainment new source review program, certifies that the State has satisfied the requirements for a nonattainment emission inventory, and certifies that the State has satisfied the requirements for clean fuels for fleets. In addition, the EPA is approving New York's reasonable further progress plans and motor vehicle emissions budgets for both the Moderate and Serious classifications of the 2008 ozone NAAQS. These actions are being taken in accordance with the requirements of the Clean Air Act.

DATES: This final rule is effective on December 11, 2023.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R02–OAR–2022–0648. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Controlled Unclassified Information (CUI) (formally referred to as Confidential Business Information (CBI)) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Fausto Taveras, Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866, at (212) 637–3378, or by email at *Taveras.Fausto@epa.gov.*

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

Table of Contents

I. What is the background for this action?

On August 25, 2023 (88 FR 58202), the EPA proposed to approve a SIP revision submitted by the State of New York on January 29, 2021, for purposes of meeting the requirement for Reasonably Available Control Technology (RACT) [1] for the 2008 8-hour Ozone NAAQS in New York's portion of the New York-Northern New Jersey-Long Island (NJ-NJ-CT) nonattainment area (also referred to as the New York Metro Area or NYMA) for the Serious classification. The EPA also proposed to approve that same submittal for meeting New York's RACT requirements for the 2015 8-hour Ozone NAAQS in the NYMA and for meeting the State's requirements for statewide RACT for the 2015 8-hour Ozone NAAQS within the Ozone Transport Region (OTR). The State's January 2021 SIP submittal consists of a RACT certification demonstration that New York continues to meet the RACT requirements for the two precursors for ground-level ozone, *i.e.,* oxides of nitrogen (NO_X) and volatile organic compounds (VOCs), set forth by the Clean Air Act (CAA or Act) with respect to the 2008 and 2015 8-hour ozone standard. Therefore, the EPA proposed to approve New York's January 2021 RACT SIP submittal as it applies to non-control technique guideline (non-CTG) major sources of VOCs, CTG sources of VOCs and to major sources of NO_X.

In the August 25, 2023, notice of proposed rulemaking, the EPA also proposed to approve portions of a comprehensive SIP revision submitted by the State of New York on November 29, 2021, certifying that the State has satisfied the requirements for: (1) An Ozone nonattainment new source review (NNSR) program which applies to NO_X and VOC emissions from stationary sources; (2) a nonattainment emission inventory; and (3) clean fuels for fleets. The EPA also proposed to approve New York's reasonable further progress plans and motor vehicle emission budgets (transportation conformity budgets or Budgets) for the Serious classifications of the 2008 Ozone NAAQS in the NYMA. In the August 25, 2023, notice of proposed rulemaking, the EPA also proposed to approve New York's reasonable further progress and transportation conformity budgets for the Moderate classification of the 2008 Ozone NAAQS in the NYMA, which was submitted by the State on November 13, 2017.

In New York's January 29, 2021, RACT submittal for the Serious classification of the 2008 Ozone standard, Moderate classification for the 2015 Ozone Standard, and OTR requirements related to the 2015 ozone NAAQS, New York recertified that its previously approved negative declaration for various CTGs remain valid. New York certified that there are no sources located in the State for the following six CTGs: Manufacture of Vegetable Oils; Manufacture of High-Density Polyethylene, Polypropylene and Polystyrene Resins; Natural Gas/Gasoline Processing Plants; Air Oxidation Processes in Synthetic Organic Chemical Manufacturing Industry; Fiberglass Boat Manufacturing Materials; Agricultural Pesticides. In the August 25, 2023, notice of proposed rulemaking, the EPA proposed that the State's negative declaration for the six CTGs listed above remain valid and satisfies the requirements for the 2008 Ozone NAAQS Serious classification, the 2015 Ozone Standard Moderate classification and requirements associated with the OTR for the 2015 Ozone NAAQS. Therefore, within this action the EPA is certifying that the previously approved State's negative declaration remains valid for these six CTGs for the 2008 Ozone NAAQS Serious classification, the 2015 Ozone Standard Moderate classification and the requirements associated with the OTR for the 2015 Ozone NAAQS. *See* 82

[1] The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979).

FR 58342 (December 12, 2017); 40 CFR 52.1683(a) and (b).

The specific details of New York's SIP submittals and the rationale for the EPA's approval action are explained in the EPA's proposed rulemaking and are not restated in this final action. For this detailed information, the reader is referred to the EPA's August 25, 2023, proposed rulemaking (88 FR 58202).

II. What comments were received in response to the EPA's proposed action?

In response to EPA's August 25, 2023, proposed rulemaking on New York's SIP revisions, the EPA received only one comment during the 30-day public comment period. The specific comment may be viewed under Docket ID Number EPA–R02–OAR–2022–0648 on the *https://regulations.gov* website.

Comment: A private citizen commenter living in the New York Metropolitan Area supports the EPA's proposed approval of New York's SIP revision because ''. . . approving this SIP would help push the State of New York, especially the Metropolitan Area to closer meet the 8-hour Ozone NAAQS . . .'' and that ''. . . these new revisions all overall help the betterment of the air quality in New York by providing [the State] the programming and provisions needed to improve their air quality and public health.''

Response: The EPA acknowledges the commenter's support of the EPA's proposed rule.

This concludes our response to the comments received. No changes have been made to the proposed rule as a result of the comments received.

III. What action is the EPA taking?

The EPA is approving New York's RACT certification submittal dated January 29, 2021, for purposes of meeting the requirements for RACT for the 2008 8-hour Ozone National Ambient Air Quality Standard (NAAQS or standard) in New York's portion of the NY-NJ-CT nonattainment area for the Serious classification. The EPA is also approving that this RACT certification submittal also satisfies New York's requirement for RACT for the 2015 8-hour Ozone NAAQS in the NYMA and the requirements for RACT for the 2015 8-hour Ozone NAAQS throughout the State of New York's commitment to meet RACT within the OTR.

The EPA is also approving portions of a comprehensive SIP revision submitted by New York on November 29, 2021, which includes: (1) The reasonable further progress plan and transportation conformity budgets for the 2008 8-hour Ozone Serious classification of the NYMA; (2) an Ozone nonattainment new source review (NNSR) program which applies state-wide for emissions to NO_X and VOC emissions from stationary sources; (3) an nonattainment emission inventory; and (4) clean fuels for fleets.

In addition, the EPA is also approving a portion of a comprehensive SIP revisions submitted by New York on November 13, 2017, which include New York's reasonable further progress plan and transportation conformity budgets for the 2008 8-hour Ozone Moderate classification of the NYMA.

IV. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- 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 Clean Air Act.

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

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address ''disproportionately high and adverse human health or environmental effects'' of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' EPA further defines the term fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.''

The New York State Department of Environmental Conservation (NYSDEC) did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

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

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

Lisa Garcia,

Regional Administrator, Region 2.

For the reasons set forth in the preamble, 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart HH—New York

■ 2. In § 52.1670(e), in the table, add entries for ''2008 8-hour Ozone Reasonable Further Progress Plan (RFP) for milestone year 2017; 2017 motor vehicle emission budgets used for planning purposes'', ''2008 8-hour Ozone Reasonable Further Progress Plan (RFP) for milestone year 2020; 2020 motor vehicle emission budgets used for planning purposes'', ''2008 8-hour Ozone Serious RACT Analysis and Certification'', ''2015 8-hour Ozone RACT Analysis and Certification'', ''2008 8-hour Ozone Serious Nonattainment New Source Review Requirements Certification'', ''2008 8-hour Ozone Serious nonattainment emission inventory'', and ''2008 8-hour Ozone Clean Fuel for Fleets'' to the end of the table to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(e) * * *

EPA-Approved New York Nonregulatory and Quasi-Regulatory Provisions

Action/SIP element	Applicable geographic or nonattainment area	New York submittal date	EPA approval date	Explanation
* *	* *	*	* *	
2008 8-hour Ozone Reasonable Further Progress Plan (RFP) for milestone year 2017; 2017 motor vehicle emission budgets used for planning purposes.	New York portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area.	11/13/2017	11/9/2023, [insert **Federal Register** citation].	• Full approval.
2008 8-hour Ozone Reasonable Further Progress Plan (RFP) for milestone year 2020; 2020 motor vehicle emission budgets used for planning purposes.	New York portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area.	11/29/2021	11/9/2023, [insert **Federal Register** citation].	• Full approval.
2008 8-hour Ozone Serious RACT Analysis and Certification.	New York portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area.	01/29/2021	11/9/2023, [insert **Federal Register** citation].	• Full approval. • Certifies New York has met the RACT requirements as it applies to non-CTG major sources of VOCs, all CTG sources of VOCs, and to major sources of NO_X for the Serious 2008 8-hour Ozone New York portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area.
2015 8-hour Ozone RACT Analysis and Certification.	Statewide and to the New York portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area.	01/29/2021	11/9/2023, [insert **Federal Register** citation].	• Full approval. • Certifies New York has met the RACT requirements as it applies to non-CTG major sources of VOCs, all CTG sources of VOCs, and to major sources of NO_X for the Moderate 2015 8-hour Ozone New York portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area. • Certifies New York's commitment to meet RACT statewide within the Ozone Transport Region (OTR) for the 2015 Ozone NAAQS.
2008 8-hour Ozone Serious Nonattainment New Source Review Requirements Certification.	New York portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area.	11/29/2021	11/9/2023, [insert **Federal Register** citation].	• Full approval.
2008 8-hour Ozone Serious nonattainment emission inventory.	New York portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area.	11/29/2021	11/9/2023, [insert **Federal Register** citation].	• Full approval.
2008 8-hour Ozone Clean Fuel for Fleets.	New York portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area.	11/29/2021	11/9/2023, [insert **Federal Register** citation].	• Full approval.

■ 3. In §52.1683:
■ a. Remove the headings from paragraphs (f), (n), and (v); and
■ b. Add paragraph (w).
The addition reads as follows:

§ 52.1683 Control strategy: Ozone.

* * * * *

(w)(1) The January 29, 2021, New York Reasonably Available Control Technology (RACT) analysis plan, submitted pursuant to the 2008 8-hour ozone national ambient air quality standard (NAAQS) Serious classification, which applies to the New York portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) nonattainment area is approved as it continues to meet the RACT requirements for the two precursors for ground-level ozone, *i.e.,* oxides of nitrogen (NO_X) and volatile organic compounds (VOCs), set forth by the Clean Air Act (CAA or Act) with respect to the 2008 8-hour ozone standard.

(2) The January 29, 2021, New York Reasonably Available Control Technology (RACT) analysis plan, submitted pursuant to the 2015 8-hour ozone national ambient air quality standard (NAAQS) Serious classification, which applies to the entire State, including the New York portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) nonattainment area is approved as it applies to the Clean Air Act control technique guidelines (CTG) requirements for major sources of volatile organic compounds (VOC).

(3) The reminder of New York's January 29, 2021, RACT analysis plan, pursuant to the 2015 8-hour ozone NAAQS as applied to the entire State, including the New York portion of the NY-NJ-CT moderate nonattainment area, and as it applies to non-CTG major sources of VOCs and to major sources of oxides of nitrogen (NO_X), is approved.

(4) The November 29, 2021, New York plan submittal providing a certification that the State has satisfied the requirements for an ozone nonattainment new source review program as sufficient for purposes of the State-wide 2008 8-hour ozone NAAQS Serious classification, including the New York portion of the NY-NJ-CT nonattainment area, is approved.

(5) The Reasonable Further Progress Plans for milestone years 2017 and 2020 pursuant to the 2008 8-hour Ozone NAAQS, included in New York's November 13, 2017, and November 29, 2021, State Implementation Plan submittals for the New York portion of the New York-Northern New Jersey-Long Island nonattainment area are approved.

(6) The 2017 and 2020 motor vehicle emission budgets used for transportation conformity purposes for the New York portion of the New York-Northern New Jersey-Long Island nonattainment area contained in New York's November 13, 2017, and November 29, 2021, SIP submittals are approved.

(7) New York's certification that the State has satisfied the requirements for Clean Fuel for Fleets under the Clean Air Act for the 2008 8-hour Ozone NAAQS, included in the State's November 29, 2021, SIP submittal for the New York portion of the New York-Northern New Jersey-Long Island nonattainment area is approved.

[FR Doc. 2023–24616 Filed 11–8–23; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 411, 412, 419, 488, 489, and 495

[CMS–1785–CN2 and CMS–1788–CN2]

RINs 0938–AV08 and 0938–AV17

Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2024 Rates; Quality Programs and Medicare Promoting Interoperability Program Requirements for Eligible Hospitals and Critical Access Hospitals; Rural Emergency Hospital and Physician-Owned Hospital Requirements; and Provider and Supplier Disclosure of Ownership; and Medicare Disproportionate Share Hospital (DSH) Payments: Counting Certain Days Associated With Section 1115 Demonstrations in the Medicaid Fraction; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors in the final rule that appeared in the August 28, 2023 **Federal Register** titled ''Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Policy Changes and Fiscal Year 2024 Rates; Quality Programs and Medicare Promoting Interoperability Program Requirements for Eligible Hospitals and Critical Access Hospitals; Rural Emergency Hospital and Physician-Owned Hospital Requirements; and Provider and Supplier Disclosure of Ownership; and Medicare Disproportionate Share Hospital (DSH) Payments: Counting Certain Days Associated with Section 1115 Demonstrations in the Medicaid Fraction'' (referred to hereafter as the ''FY 2024 IPPS/LTCH PPS final rule'').

DATES:

Effective date: This correcting document is effective November 9, 2023.

Applicability date: This correcting document is applicable for discharges beginning October 1, 2023.

FOR FURTHER INFORMATION CONTACT: Mady Hue, (410) 786–4510, and Andrea Hazeley, (410) 786–3543, MS–DRG Classifications.

SUPPLEMENTARY INFORMATION:

I. Background

This correcting document identifies and corrects errors in FR Doc. 2023–16252 of August 28, 2023 (88 FR 58640). The corrections in this correcting document are applicable to discharges occurring on or after October 1, 2023, as if they had been included in the document that appeared in the August 28, 2023 **Federal Register**.

II. Summary of Errors

On pages 58734 and 58735, we are correcting the omission of a comment and response with respect to the request for MS–DRG reassignment of cases reporting spinal fusion procedures utilizing an aprevo™ customized interbody fusion device.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rulemaking in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Social Security Act (the Act) requires the Secretary to provide for notice of the proposed rulemaking in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements; in cases in which these exceptions apply,

sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support.

We believe that this final rule correction does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements. This document corrects technical errors in the preamble of the FY 2024 IPPS/LTCH PPS final rule, but does not make substantive changes to the policies or payment methodologies that were adopted in the final rule. As a result, this final rule correction is intended to ensure that the information in the FY 2024 IPPS/LTCH PPS final rule accurately reflects the policies adopted in that document.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the final rule or delaying the effective date would be contrary to the public interest because it is in the public's interest for providers to receive information regarding the relevant Medicare payment policy in as timely a manner as possible, and to ensure that the FY 2024 IPPS/LTCH PPS final rule accurately reflects our policies. Furthermore, such procedures would be unnecessary, as we are not altering our payment methodologies or policies, but rather, we are simply implementing correctly the methodologies and policies that we previously proposed, requested comment on, and subsequently finalized. This final rule correction is intended solely to ensure that the FY 2024 IPPS/LTCH PPS final rule accurately reflects these payment methodologies and policies. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements. Moreover, even if these corrections were considered to be retroactive rulemaking, they would be authorized under section 1871(e)(1)(A)(ii) of the Act, which permits the Secretary to issue a rule for the Medicare program with retroactive effect if the failure to do so would be contrary to the public interest. As we have explained previously, we believe it would be contrary to the public interest not to implement the corrections in this final rule correction for discharges occurring on or after October 1, 2023, because it is in the public's interest for providers to receive information regarding the relevant Medicare payment policy in as timely a manner as possible, and to ensure that the FY 2024 IPPS/LTCH PPS final rule accurately reflects our policies.

IV. Correction of Errors

In FR Doc. 2023–16252, appearing on page 58640 in the **Federal Register** of Monday, August 28, 2023, the following corrections are made:

1. On page 58734, third column, after the fourth full paragraph, the language is corrected by adding the following:

''Another commenter (the manufacturer of the aprevo™ customized interbody spinal fusion devices) reiterated its request to reassign cases reporting the performance of a spinal fusion procedure utilizing an aprevo™ customized interbody spinal fusion device from the lower severity (without CC/MCC) MS–DRGs to the higher severity (with MCC) MS–DRGs. According to the commenter, CMS's analysis as discussed in the proposed rule confirmed that cases reporting the use of aprevo™ contained average costs that exceeded the average costs of every spinal fusion MS–DRG.

The commenter expressed strong disagreement with CMS' characterization of the reliability of the Medicare claims data and stated that it can verify the utilization of the aprevo™ technology with absolute certainty at both the provider and patient level, which the commenter referred to as legitimate claims data. Moreover, the commenter stated that it is their access to precise procedure data for the aprevo™ spinal fusion device that enabled the commenter to notify CMS of discrepancies identified by the manufacturer with the Medicare claims data. Specifically, the commenter stated that it has continued to collect claims data from its customers and that there is now data on 77 claims based on legitimate customer utilization of the aprevo™ device. The commenter stated that approximately half of these 77 claims are documented in CMS's Standard Analytical File (SAF) FY 2022 Q1–Q4 report, and half of the 77 claims are customer claims which were provided directly by hospitals to the commenter, representing procedures occurring in Q1 FY 2023 and not yet reflected in CMS's Limited Data Set (LDS) files. The commenter provided the following table.

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DRG	Case #	LOS	STANDARDIZED Implantable Device Charge**$	STANDARDIZED Total Charge $	aprevo Case 0278 Charges % Increase Over Cases in Same MS-DRG	aprevo Case 0278 Charges $ Increase Over Cases in Same MS-DRG
MS-DRG 453 all cases	3,900	9	$124,141	$333,609		
MS-DRG 453 legitimate cases using aprevo custom-made interbody device		9	**$229,691**	**$506,670**	**85%**	**$105,550**
MS-DRG 454 all cases	19,830	4	$101,607	$227,461		
MS-DRG 454 legitimate cases using aprevo custom-made interbody device		6	**$243,041**	**$448,126**	**139%**	**$141,434**
MS-DRG 455 all cases	17,490	3	$77,389	$171,430		
MS-DRG 455 legitimate cases using aprevo custom-made interbody device		3	**$158,688**	**$314,285**	**105%**	**$81,299**
MS-DRG 456 all cases	1,300	13	$98,952	$317,228		
MS-DRG 456 legitimate cases using aprevo custom-made interbody device			no data	no data		
MS-DRG 457 all cases	3,060	6	$94,230	$229,958		
MS-DRG 457 legitimate cases using aprevo custom-made interbody device		3	**$301,681**	**$470,774**	**220%**	**$207,451**
MS-DRG 458 all cases	810	3	$77,290	$171,541		
MS-DRG 458 legitimate cases using aprevo custom-made interbody device		2	**$99,327**	**$185,619**	**29%**	**$22,037**
MS-DRG 459 all cases	3,200	10	$63,211	$232,841		
MS-DRG 459 legitimate cases using aprevo custom-made interbody device		6	**$377,687**	**$740,473**	**497%**	**$314,476**
MS-DRG 460 all cases	31,120	3	$51,914	$137,734		
MS-DRG 460 legitimate cases using aprevo custom-made interbody device		3	**$169,818**	**$302,750**	**227%**	**$117,904**
TOTAL CASES USING APREVO CUSTOM-MADE INTERBODY DEVICE					**% Increase Over MS-DRG 453 Implant Charges ($124,141)**	**$ Increase Over MS-DRG 453 Implant Charges ($124,141)**
Aprevo SAF FY22 Q1-Q4	36	5.83	$242,308	$457,465	95%	$118,167
Aprevo Carlsmed Data FY23	41	4.49	$198,433	$374,242	60%	$74,292
All Aprevo Cases	**77**	**5.12**	**$218,946**	**$413,151**	**76%**	**$94,805**

Notes:

**** Based on revenue center 278 "Other Implants".** https://resdac.org/cms-data/variables/revenue-center-code-ffs

The commenter provided findings from its own analysis of claims in CMS's SAF data and stated an analysis of the customer claims in CMS's SAF

data that were verified by the commenter demonstrated a significant increase in charges for revenue center 0278 (Implantable Devices) over the average implantable device charges for the highest CC level MS–DRG (MS–DRG 454). The commenter stated that this implantable device charge data proved beyond doubt that the increased total charges of legitimate customer claims in CMS's own data is attributable to the higher cost of the aprevo™ custom-made anatomically designed devices.

The commenter also stated that CMS has a long-standing policy of using external data to inform MS–DRG reclassification as a way of addressing concerns about the timeliness of data from the MedPAR file. According to the commenter, CMS accepts the submission of external data that is intended to demonstrate that inpatient stays involving a new technology are costlier on average than the other inpatient stays in the same MS–DRG.

With respect to the revised code proposal, the commenter stated that while it agreed that the revised procedure code descriptions will improve the reporting of procedures that utilize the aprevo™ spinal fusion device by eliminating a misinterpretation of the current description that it stated has caused illegitimate uses of the codes, it continues to have concerns as it relates to the requested MS–DRG assignment and rate-setting for cases reporting use of the aprevo™ spinal fusion device for FY 2024. The commenter stated that Medicare claims data reflecting improved coding as it relates to aprevo™ utilization will not be available when the FY 2025 rulemaking process is underway. The commenter stated that if CMS chooses to wait another year to act it will compromise beneficiary access to an important technology that provides significant health benefits.

Additionally, the commenter stated that while the new technology add-on payment for the transforaminal interbody fusion (TLIF) indication will continue for FY 2024, the new technology add-on payment for the anterior lumbar interbody fusion (ALIF) and lateral lumbar interbody fusion (LLIF) procedures, which represent 70 percent of aprevo™ utilization, expires on September 30, 2023. According to the commenter, if CMS does not assign all procedures reporting the use of an aprevo™ spinal fusion device to MS–DRGs 453 and 456 for FY 2024, it will risk beneficiary access to this important technology.''

2. On page 58735, top half of the page, third column, after the first partial paragraph, and before the first full paragraph, the language is corrected by adding the following paragraphs:

''As discussed in the FY 2024 IPPS/LTCH PPS proposed rule and prior rulemaking, we generally utilize MedPAR data when considering changes to the MS–DRG classifications, which includes an analysis of the volume of cases, the average length of stay, and average costs, with consideration of other factors. For the FY 2024 IPPS/LTCH PPS proposed rule, our initial analysis of potential changes to the MS–DRG classifications was based on ICD–10 claims data from the September 2022 update of the FY 2022 MedPAR file, with certain additional analysis based on ICD–10 claims data from the December 2022 update of the FY 2022 MedPAR file.

In the July 30, 1999 IPPS final rule (64 FR 41499 through 41500), we stated that in order for us to consider using non-MedPAR data, the non-MedPAR data must be independently validated, meaning when an entity submits non-MedPAR data, we must be able to independently review the medical records and verify that a particular procedure was performed for each of the cases that purportedly involved the procedure. In this particular circumstance, where external data for cases reporting the use of an aprevo™ spinal fusion device was provided, CMS did not have access to the medical records to conduct an independent review; therefore, we were not able to validate or confirm the non-MedPAR data submitted by the commenter for consideration in this final rule. However, our work in this area is ongoing, and we will continue to examine the data and consider these issues as we develop potential future rulemaking proposals.''

Elizabeth J. Gramling,

Executive Secretary, Department of Health and Human Services.

[FR Doc. 2023–24670 Filed 11–8–23; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 80

[WT Docket No. 23–357; FCC 23–90; FR ID 183686]

Radiotelephone Requirements for Vessels on the Great Lakes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) amends its rules to retain the radiotelephone requirements for vessels subject to the current Great Lakes Agreement (GLA or Agreement). The GLA is a treaty between the United States and Canada. In relevant part, the GLA established requirements regarding the usage and maintenance of radiocommunications equipment for safety purposes aboard certain vessels navigating on the Great Lakes. Pursuant to Canada's notice of termination on November 2, 2022, the GLA will cease to be effective on November 2, 2023. As a result, the FCC takes expedited action in this order to amend subpart T and certain other parts of the Commission's rules to remove the references to the GLA and maintain the applicability of rules in the Great Lakes.

DATES: Effective November 9, 2023.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Erin McGrath of the Wireless Telecommunications Bureau, Mobility Division, at (202) 418–2042 or *erin.mcgrath@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of Commission's Order, in WT Docket No. 23–357; FCC 23–90, adopted on October 30, 2023 and released on October 31, 2023. The full text of this document is available for public inspection online at *https://docs.fcc.gov/public/attachments/FCC-23-90A1.pdf.* The Commission will send a copy of this Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

Synopsis

1. In this Order, the Commission takes action to ensure the continued safety of vessels navigating the Great Lakes by amending part 0 and part 80 of the Commission's rules to retain the radiotelephone requirements for vessels subject to the current Great Lakes Agreement (GLA or Agreement). The GLA is a treaty between the United States and Canada that, among other things, established requirements regarding the ''usage and maintenance of radiocommunications equipment for safety purposes aboard'' certain vessels navigating on the Great Lakes. Agreement Between Canada and the United States for the Promotion of Safety on the Great Lakes by Means of Radio, art. II, U.S.-Canada, April 26, 1973, 25 UST 935, T.I.A.S. 7837, amended 30 UST 2523, T.I.A.S. 9352 (GLA). These requirements are codified primarily in subpart T of part 80 of the

Commission's rules (subpart T). Because the GLA will cease to be effective on November 2, 2023, pursuant to Canada's notice of termination on November 2, 2022, the Commission must take expedited action to amend subpart T and certain other rules in part 0 and part 80 to remove the references to the GLA and maintain the applicability of rules in the Great Lakes. This will ensure that the Commission's rules continue to promote the safety of life and property on the Great Lakes, provide regulatory stability going forward, and accurately reflect the GLA's status.

2. Further, after careful consideration of information the Commission has recently received from the U.S. Coast Guard (USCG), which also contains information from the Canadian government, the Commission finds it to be necessary and in the public interest to amend one of the subpart T rules requiring an inspection of the required radiotelephone installation at least once every 13 months by extending the time period to once every 48 months. As described in further detail herein, the Commission takes this action to align its rules with the Canadian inspection interval that will apply upon termination of the GLA and to more closely conform to the current needs of the industry given improvements in maritime safety and equipment. The USCG supports this change, noting that the GLA's termination was prompted after the Canadian Government's attempt to renegotiate the terms of the inspection requirement for three years.

I. Background

3. Ensuring the availability of critical maritime communications has been one of the Commission's fundamental obligations since the earliest days of the Communications Act. The Act not only charges the Commission generally with making available wire and radio service for the purpose of promoting safety of life and property, but it also specifically entrusts us with obligations relating to maritime radio communications. Today, similar to the terrestrial emergency 911 system, the maritime services provide for the unique distress, as well as the operational and personal communications, needs of vessels at sea and on inland waterways. While the maritime community has pioneered the use of radio for safety purposes, maritime services also provide a wide range of communications services to vessels to support a multibillion-dollar industry. Along with other applicable rule parts, part 80 of the Commission's rules contains the requirements for stations in the maritime services, and specifically states that the rules are promulgated under the provisions of the Communications Act of 1934, which provides the Commission authority to regulate radio transmissions and to issue licenses for radio stations, and in accordance with various applicable statutes, treaties, and agreements, including the GLA. It also notes that the USCG also has rules that affect radiotelecommunication equipment carriage and power source requirements on certain ships. This extensive history and these requirements reflect the importance of having radio equipment aboard vessels to facilitate communication and promote maritime safety without causing harmful interference to each other or to other spectrum users.

A. The Great Lakes Agreement

4. The GLA was signed on February 26, 1973, entered into force on May 6, 1975, and was amended in 1978 and 1988. The GLA is generally intended to promote the safety of life and property and efficiency of navigation on the Great Lakes and their connecting and tributary waters by coordinating the use of radiocommunications equipment for distress, safety, and navigational purposes. The purposes of the GLA include not only ensuring the operability of radiocommunication and associated equipment during maritime distress and safety and efficiency while navigating on the Great Lakes, but also ensuring that all vessel on the Great Lakes are operating under uniform regulations on radiocommunications to maintain the safety of all ships operating on the Great Lakes. Both the United States and Canada agreed to cooperate to maintain similar rules to the greatest extent possible.

5. The GLA provides that vessels of all countries must comply with its requirements while operating on the Great Lakes if they fall within certain specific categories. The GLA requires, among other things, that all vessels 65 feet or over in length, most towing vessels, and vessels carrying more than six passengers for hire be equipped with a marine VHF radiotelephone installation. In order to further the purposes of the GLA, applicable vessels also need to comply with certain other requirements, such as meeting listening and frequency requirements, having at least one certified radio operator, and retaining certain records on the use of the radiotelephone station for safety purposes, among others.

6. The GLA also requires that radiotelephone stations be inspected at least once every thirteen months either by officers of the United States or Canada or by persons nominated for that purpose or organizations recognized by either the United States or Canada. Following inspection, the inspector must certify that the relevant provisions of the GLA have been complied with, and that certification must be kept on board the vessel and available for inspection.

B. Commission Rules Implementing the Great Lakes Agreement

7. The Commission adopted rules implementing the GLA primarily in subpart T of part 80 and in other scattered sections of part 0 and part 80. The subpart T rules apply to vessels to which the GLA applies that fit into the specific GLA categories—*i.e.,* all vessels 20 meters (65 feet) or over in length, most towing vessels, and vessels carrying more than six passengers for hire—while operating on the Great Lakes, unless they have received an exemption from the Commission. Subpart T not only incorporates the GLA requirements for use of VHF equipment, but also mandates, consistent with the GLA, the frequencies to be used and other technical requirements, including reserve power, operator, maintenance and inspection requirements.

8. Besides the rules in subpart T, the GLA is mentioned in and effectuated by other sections of part 80 and part 0 of the Commission's rules. In part 0, sections 0.131(s)(2) and 0.491 specifically mention the GLA in delegating authority to the Wireless Telecommunications Bureau to grant emergency exemption requests, extensions or waivers of inspection to ships and in providing filing instructions for exemption requests, respectively. Apart from subpart T, the following rules in part 80, in most cases, contain references to the GLA that need to be replaced, but, in some cases, augment subpart T by clarifying technical and other requirements applicable to Great Lakes vessels. These rules are as follows: 80.1(a) (referencing the GLA in a list of documents providing the basis for the Commission's maritime rules), 80.5 (referencing the GLA in the definition of passenger carrying vessel in the categories of ships section and the Great Lakes definition and defining compulsory ships in the categories of ships section), 80.59 (identifying the inspection requirements for the various categories of compulsory vessels and referencing the GLA), 80.161 (referencing the GLA in an operator requirement rule), 80.308 (referencing the GLA in a watch requirement rule), 80.401 (referencing the GLA in a station document requirement rule), 80.409(f)

(providing how different categories of vessels must comply with requirements for station log entries and referencing the GLA), 80.411(b) (identifying the certificate posting requirements of various vessels and referencing the GLA), 80.1005 (referencing the GLA in the inspection rule in subpart U, which applies to Bridge-to-Bridge Act vessels), and 80.1065(b) (referencing the GLA in the applicability rule in subpart W, which applies to vessels that must carry the Global Maritime Distress and Safety System).

9. With regard to inspection and certification, section 80.953 describes the requirements that apply to each vessel subject to the GLA. As described in further detail below, each vessel subject to the GLA must have a radiotelephone installation inspection at least once every 13 months.

C. Termination of the Great Lakes Agreement

10. Article XXI of the GLA provides that the Agreement may be terminated unilaterally by either the United States or Canada upon written notice, with termination taking effect twelve months after the date of such notification. As noted above, on November 2, 2022, Canada provided written notice to the United States of the termination of the GLA. Accordingly, the GLA will cease to be effective on November 2, 2023. The Commission and the USCG have been working diligently during this time to arrive at a solution that will maintain safety and regulatory certainty for how maritime radio equipment aboard vessels in the Great Lakes operates to permit communications, including but not limited to during emergencies.

II. Discussion

A. Reinstatement of the Commission's Rules for the Great Lakes

11. The Commission's rules promoting the safety of vessels navigating the Great Lakes generally would not be valid and in effect after the termination of the GLA on November 2, 2023, without today's action to extend these safety measures. The subpart T rules, by their terms, apply only to vessels that are subject to the GLA, not to all vessels that are on voyages in those specific waters. Section 80.951 specifically states that vessels to which the GLA applies must comply with subpart T while navigating on the Great Lakes. Other rules in part 0 and part 80 use similar terminology to establish their applicability to vessels that are subject to the GLA. Furthermore, in adopting many of these rules, the Commission stated that its purpose was to implement the GLA. Accordingly, given that the applicability of the current subpart T rules and certain other rules in part 0 and part 80 is predicated on the continued existence of the GLA, the effective date of termination of the GLA on November 2, 2023, would render those rules a nullity with no practical effect on any vessels, leaving the Commission with no means of carrying forward the enforcement of important Great Lakes-specific radiotelephone installation requirements in the absence of replacement rules. To remedy a situation that could negatively impact safety on the Great Lakes, the Commission finds it necessary and in the public interest to amend the subpart T rules and certain other rules in part 0 and part 80—*i.e.,* to remove the references to the GLA and clarify some rules given the termination of the GLA—to ensure the continued applicability of the substantive requirements governing vessels that are currently subject to the GLA. By continuing the effectiveness of these rules, the Commission will maintain the important public safety requirements that have been in place for decades applicable to certain vessels navigating the Great Lakes.

12. The Commission finds that these rules are necessary and in the public interest, first and foremost, to preserve safety of life and property on the Great Lakes. As noted above, the rules at issue implemented the GLA requirements to install, use, and maintain basic equipment (marine VHF radio) as a means of serving safety, as well as operational and business, purposes for vessel operators. The installation and maintenance of VHF radios are critical to navigation safety on the Great Lakes for purposes including intership navigation, port safety, and operation in vessel traffic areas. Due to limits on coverage from land-based mobile networks over the Great Lakes waters, the USCG operates an extensive network of towers to listen to distress calls and the Rescue 21 network to locate those in danger, and in addition, others, such as commercial ships and bridge tenders rely on VHF marine radio. VHF radios operating in compliance with the GLA rules are essential to Search and Rescue proceedings and other important emergency and non-emergency safety functions including navigation, Vessel Traffic Service (VTS), port operations, port safety, and the dissemination of Urgent Marine Information Broadcasts and weather warnings. For example, vessels entering the Great Lakes traffic areas need radios to check into the VTS centers. VTS, the primary tool used by operators to communicate with mariners in a VTS operating area, provides a wide range of techniques and capabilities aimed at preventing vessel collisions, rammings, and groundings in the harbor, expedites ship movements, increases transportation systems efficiency, and improves operating capability. While it is unlikely that vessel operators would stop carrying and using basic VHF radio equipment immediately upon the effective date of the GLA's termination on November 2, 2023, over time, it is possible that some vessels would stop installing or maintaining VHF radio equipment if it is not required, affecting the efficiency of navigation and making essential communications challenging. The Commission finds that, as a result, safety would be compromised in both emergency and non-emergency situations.

13. Existing rules also provide for inspections of required equipment, maintenance contracts, reserve power, use of licensed operators, or maintenance of a continuous watch on certain frequencies. The USCG demonstrates that, if the pending termination of the GLA is not immediately addressed, mariner's safety will be at risk. While the GLA has been successful in promoting safety on the Great Lakes, USCG data demonstrates that there are a few vessels that are not in compliance. Not only do some of these vessels not have VHF radios or FCC licenses, but some also have faulty equipment or do not have reserve power, the required certifications, or radio logs. These failures were discovered during USCG inspections, demonstrating the general importance of inspection requirements as a vital means of maintaining safety and ensuring compliance with rules. Thus, the amendment of subpart T and certain part 0 and part 80 rules is necessary to maintain these important safety requirements.

14. Further, one of the primary purposes of the GLA—and, thus, of our implementing rules—is to provide uniform radiocommunications regulations for all vessels operating on the Great Lakes, regardless from which nation the vessel originates. Uniformity is important not only for distress situations, but also to ensure maritime safety and efficiency of navigation. Canada has recently adopted rules that are similar to the GLA requirements and, therefore, the equipment carriage requirements will remain the same even after the GLA terminates. Accordingly, with the exception of a modification to the inspection interval explained below,

as of November 2, 2023, the substance of the current GLA requirements would continue to apply to vessels in Canadian waters of the Great Lakes, but not to vessels in U.S. waters, if these rules are not amended. Amending the Commission's rules to retain the existing requirements is necessary to ensure the uniformity of rules in the United States and Canada.

15. Maintaining uniformity in regulations between the United States and Canada simplifies the obligations of vessel operators on the Great Lakes and prevents unnecessary confusion, delay, and cost. If the Commission were not to maintain the GLA rules in the same way as implemented under the GLA, vessel operators subject to current GLA requirements could be confused about which rules apply as they voyage on the Great Lakes—the Canadian rules that are based on the GLA, or different, non-GLA rules in the United States that apply to some U.S. vessels in the Great Lakes. For example, a U.S. vessel that is not subject to the GLA rules in U.S. waters and may no longer be in compliance with existing GLA rules, could be detained or subject to penalties for violations of the radio and inspection requirements in Canadian waters where the Canadian GLA rules do apply. Indeed, because there is no ''innocent passage'' in the Great Lakes, a vessel navigating the Great Lakes passes through both U.S. and Canadian waters multiple times, subjecting that vessel to multiple rule violations. Vessels would need to be cognizant of which set of rules they need to follow and what equipment needs to be on board based on whether they are in the U.S. or Canadian waters of the Great Lakes or if they are going to a port in the other country. By amending the Commission's rules to retain generally the requirements already applicable to these vessels, the Commission promotes clarity, certainty, and ultimately safety while minimizing burdens on operators.

16. Additionally, if the Commission were not to maintain the current Great Lakes rules that are consistent with the GLA and Canada's requirements, commerce and travel could be adversely affected as a result of the lack of certainty to vessels navigating the Great Lakes and going between ports in the United States and Canada. After the effective date of termination of the GLA, unless the Commission maintains the existing GLA rules to match Canada's rules, vessels on the Great Lakes may have the burden and cost of complying with two different and possibly conflicting sets of requirements. Vessels may be refused access to or detained at the foreign port if they are not in compliance with the other country's rules. Not only is detention and delay of vessels a possibility, but also vessels could be subject to monetary fines for violations of rules governing VHF radio installations and inspections, along with other GLA requirements. This scenario could hinder trade if vessels cannot freely travel on the Great Lakes between ports in the United States and Canada in the absence of a certain, uniform set of applicable rules.

B. Update to the Commission's Inspection Requirement for the Great Lakes

17. Although the Commission is amending subpart T and certain part 0 and part 80 rules to retain the existing requirements in their entirety, the Commission hereby amends the inspection requirement in section 80.951 by changing the required inspection interval from at least once every 13 months, to at least once every 48 months. Certifications of inspection that are valid on the effective date of the GLA termination—therefore, dated between October 2, 2022 and November 2, 2023—will be valid for 48 months from the date of inspection, as opposed to 13 months. The Commission takes this action to align its requirement with Canada's inspection interval currently applicable to inland waterways that will be applicable to GLA vessels upon the effective termination of the GLA. This alignment will promote uniformity and more closely conform to the current needs of the industry and the realistic practices of both the United States and Canada in maintaining safety and beneficial commerce for vessels navigating on the Great Lakes.

18. This inspection requirement change is supported by the USCG, which has had extensive conversations with Great Lakes mariners regarding concerns about the 13-month-inspection requirement, and has stated that changing the inspection requirement will not hinder the safety of life and property. As the USCG explains, improvements in maritime safety and equipment have resulted in the GLA's inspection interval requirement becoming antiquated and in need of revision to allow a longer period of time between required inspections. Specifically, although the original 13-month-inspection interval may have been necessary decades ago when the GLA was first executed and vessels used crystal radios requiring more frequent monitoring and adjusting, improvements in VHF radio technology mean that the equipment is reliable for a significantly longer period of time. Thus, the USCG states that changing the inspection interval from 13 months to 48 months will not affect mariner's safety because of the improved reliability and stability of current VHF equipment.

19. The Commission notes that a 48-month inspection interval for Great Lakes vessels that are likely within range of VHF radio communications, and therefore available for quicker safety response according to the USCG, is appropriate in contrast to vessels subject to the Safety Convention (SOLAS) and subpart W of the Commission's rules. These SOLAS and subpart W vessels have an annual inspection requirement, but they travel further offshore, navigate the oceans and typically are outside of VHF range, and travel for longer time periods. In contrast to Great Lakes vessels that solely navigate the Great Lakes and are specifically exempt from SOLAS, SOLAS vessels must carry longer range communications and more complex navigation equipment. Accordingly, SOLAS vessels are subject to a more stringent annual inspection interval, which will continue to apply separate from vessels navigating the Great Lakes.

20. By lengthening the inspection interval for Great Lakes vessels, the Commission intends to lessen the costs and burdens for applicable vessel owners and operators, but without any decrease in safety. Inspections of Great Lakes vessels cost on average $300 per vessel. Accordingly, as an example, if a company operates 20 vessels, it would be required by pay $6,000 ($20 \times \$300$) for the 13-month inspection, and $24,000 ($4 \times \$6,000$) over the course of 48 months. By changing the inspection interval to once every 48 months, that vessel company would only be required to pay $6,000 over the course of 48 months, saving $18,000 ($\$24,000 - \$6,000$). This burden reduction will not negatively impact safety because, as noted above, technological advances in radio installations have translated to a reduced need for frequent inspections. The Commission notes that in 1996, when the Commission privatized the inspection of GLA vessels, it stated that, over a five year period, only one percent of the vessels failed the radio inspection. As stated above, USCG data supports that, while some vessels fail inspection, there is a low failure rate of the equipment. Still, the Commission continues to believe that inspections are an integral part of the Commission's rules and necessary to ensure that vessels navigating the Great Lakes have a reliable means of communications to support efficient and safe navigation and to notify others when in distress.

21. The Commission also makes corresponding changes to the requirement that vessels must retain a log entry or issuance of a Great Lakes certificate from two years until the date of the next radio inspection. This rule change conforms the log retention rule with the 48-month inspection requirement.

C. Notice and Comment

22. The Commission finds good cause, pursuant to the Administrative Procedure Act (APA), to conclude that prior notice and comment are unnecessary before adopting these amendments because the amended rules will simply retain existing legal requirements, except for the amendment to the inspection requirement adopted herein. Notice and comment are unnecessary when ''the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public.'' *Util. Solid Waste Activities Grp.* v. *EPA,* 236 F.3d 749, 755 (D.C. Cir. 2001) (internal quotation marks omitted); *accord Mack Trucks, Inc.* v. *EPA,* 682 F.3d 87, 94 (D.C. Cir. 2012). The ''unnecessary'' prong is met when the rule amendments do not ''substantively alter the existing regulatory framework'' or produce any ''detrimental impact on the rights of the parties regulated.'' *Nat'l Helium Corp.* v. *Fed. Energy Admin.,* 569 F.2d 1137, 1146 (Temp. Emer. Ct. App. 1977); *see also Amendment of Subpart S and T of Part 90 of the Rules to Permit Licensing of Channels in the 896–901/935–904 MHz and 220–222 MHz Bands in the U.S./Mexico Border Area,* Order, 7 FCC Rcd 7154, 7154, para. 5 (1992). In this Order, the Commission is maintaining rules that have been in place for decades without change and simply make minor, technical amendments—such as deleting references to the GLA, which will no longer be in effect—to ensure their continued applicability. The same rules will apply to the same vessel owners and operators as they have in the past, and therefore, vessel owners and operators on the Great Lakes will experience no additional burdens and no effect on their substantive rights or obligations. In fact, the burdens would increase on vessel owners if the Commission initiated a notice and comment proceeding that would continue beyond November 2, 2023, because stakeholder confusion could ensue about what rules apply when operating on the Great Lakes, especially in the absence of uniform applicable regulations with Canada during the pendency of such proceeding, as discussed above.

23. Moreover, given the safety concerns, the Commission finds good cause to conclude that prior notice and comment would be contrary to the public interest. The Commission is faced with a potential emergency situation where serious harm could result if the rules ensuring the safety of vessels navigating the Great Lakes were suddenly not applicable and enforceable beginning on November 2, 2023. Good cause has been found to exist in emergency situations in which a rule responds to an immediate threat to safety or physical property. As explained above, these rules were put in place to ensure the safety of life and property on the Great Lakes and to ensure communications when vessels are in distress or facing emergency situations, including with the USCG and their Canadian counterparts. The USCG stresses the importance of maintaining the requirements beyond November 2, 2023, particularly because properly placed and operating VHF radiocommunications not only permits vessels to seek help in emergencies, but also allows authorities and other vessels in the vicinity to facilitate the assistance of nearby vessels in distress. The USCG also notes that there is limited cell phone coverage on the Great Lakes, making VHF radios the only reliable means to make contact if vessel is in distress. The Commission, therefore, finds good cause to forgo notice and comment to ensure, in particular, that these communications and public safety rules designed to address distress situations are effective and continue to be applicable to vessels on the Great Lakes after the effective date of termination of the GLA.

24. Additionally, the Commission had limited time to coordinate a joint regulatory response to Canada's termination of the GLA, making public participation impracticable in this case. Good cause has been found to exist when a rule is necessary, due to circumstances beyond the agency's control, to avoid or ameliorate expected harm to important public interests. On November 2, 2022, Canada unilaterally terminated the GLA in a letter to the U.S. Department of State. Since the date of Canada's termination letter, the Commission has expended considerable time and effort in coordinating with the various interested stakeholders, including the U.S. Department of State, USCG, and Canada, to determine the appropriate regulatory paradigm going forward. These events, including the termination of the treaty, were largely beyond the Commission's control. Once that coordination process was completed, there was insufficient time for public participation in this rulemaking proceeding. Doing so would have significantly delayed the Commission's effort to ensure that there will be rules in place beginning on the effective date of termination of the GLA. Allowing the GLA to terminate without having rules in place would not be in the public interest, as it would endanger public safety, cause commercial harm, and cause confusion for vessel owners and operators as to what regulations applied in the Great Lakes.

25. This Order substantively amends only one existing rule by relaxing the inspection requirement for applicable vessels on the Great Lakes from once every 13 months to once every 48 months, at the request of the USCG. As stated above, Canada terminated the GLA because of concerns about the frequency of a 13-month inspection requirement, which Canada will replace with a 48-month inspection requirement currently applicable to inland waterways. If the Commission does not amend its inspection interval to mirror Canada's interval, then there will be an inconsistency between Canada's requirement and the United States's current 13-month requirement. The Commission, therefore, makes this same change to its rules to maintain uniformity in the inspection interval rules between the United States and Canada, which will benefit international relations between the two countries.

26. If the United States and Canada maintain different inspection requirements, vessel owners and operators could be fined or detained for unwittingly following the wrong rules when unknowingly crossing into U.S. or Canadian waters or when entering the other country's port. Both the USCG and Canadian government have stated that they will fully enforce their rules. Therefore, as the USCG explains, a vessel traveling from Cleveland, Ohio to Duluth, Minnesota will pass between the countries' waters numerous times, potentially resulting in multiple violations for each transit which could lead to excessive fines or being detained. Such enforcement actions by the United States and Canada involving the other country's flagged vessels could harm commerce by raising prices and halting the transport of goods, travel, and foreign relations between the countries. The USCG states that ''[i]n the spirit of cooperation with our Canadian counterparts over the shared coverage of the Great Lakes, we implore that our requirements are in sync with Canada.'' Letter from Jerry L. Ulcek, Chief, Spectrum Management and Communications Policy Division,

USCG, to Scott S. Patrick, Executive Director, Office of Spectrum Management, NTIA, Attach., at 3 (Sept. 29, 2023). Requiring notice and comment for this rule change would result in excessive delay and prevent the maintenance of uniformity and international stability, and the Commission therefore finds additional good cause to conclude that following notice-and-comment procedures would be contrary to the public interest. For these reasons, the Commission also finds that the amendment to the inspection requirement falls under the foreign affairs exception for notice and comment procedures.

D. Effective Date

27. For similar reasons, the Commission finds good cause to make these rules effective immediately upon publication in the **Federal Register**. While rules issued by the Commission generally must be published at least 30 days before they become effective, the APA and the Commission's rules make an exception for a determination of good cause published with the rule. Given that the imminent lapse of the GLA rules on November 2, 2023, would pose a risk to the safety of life and property on the Great Lakes, it is necessary that the Commission has these rules adopted and effective prior to the GLA's termination date. Further, because the Commission is by and large simply retaining rules that are in existence today, vessels on the Great Lakes should already be equipped with the requisite VHF radios and meet the other communications requirements maintained by today's action, and, therefore, vessel owners and operators do not need time to come into compliance with these rules.

28. The Commission also concludes that the revised inspection requirement should likewise become effective immediately upon publication in the **Federal Register**. This rule change relieves a burden on industry by permitting vessels to be inspected every 48 months, instead of every 13 months. Because this action relieves a restriction, it is exempt from the requirement that the rule be published for at least 30 days in the **Federal Register** before becoming effective. Further, this rule change ensures that the U.S. and Canadian rules remain uniform, thereby avoiding a disruption in trade or international disputes regarding what rules apply to various vessels. To maintain uniformity, this rule change needs to be effective as of November 2, 2023. As with the retention of the other Great Lakes rules, the only way to accomplish this is to make this rule effective upon publication in the **Federal Register**.

III. Procedural Matters

29. *Regulatory Flexibility Act.* Because this rule change is being adopted without notice and comment, the Regulatory Flexibility Act does not apply.

30. *Paperwork Reduction Analysis.* This document does not contain any new or substantively modified information collection requirements subject to the Paperwork Reduction Act of 1985 (PRA), Public Law 104–13. In addition, therefore, it does not contain any new or modified information collection burden for small business concerns with fewer than 25 employees, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198. This document may contain non-substantive modifications to approved information collections. Any such modifications will be submitted to the Office of Management and Budget (OMB) for approval pursuant to OMB's non-substantive modification process.

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

IV. Ordering Clauses

32. *Accordingly, it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 301, 303, and 321 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 301, 303, and 321, this Order *is adopted.*

33. *It is further ordered* that part 0 and part 80 of the Commission's rules *are amended* as set forth in Appendix A. These amendments shall become effective upon publication of this Order in the **Federal Register**, pursuant to 5 U.S.C. 553(d)(3) and section 1.427(b) of the Commission's rules, 47 CFR 1.427(b).

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

List of Subjects

47 CFR Part 0

Authority delegations (Government agencies), Organization and functions (Government agencies).

47 CFR Part 80

Marine safety, Radio, Communications equipment, Great Lakes, Vessels.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 0 and 80 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, and 409, unless otherwise noted.

■ 2. Amend § 0.131 by revising paragraph (s)(2) to read as follows:

§ 0.131 Functions of the Bureau.

* * * * *

(s) * * *

(2) Grants emergency exemption requests, extensions or waivers of inspection to ships in accordance with applicable provisions of the Communications Act, the Safety Convention, or the Commission's rules.

■ 3. Revise § 0.491 to read as follows:

§ 0.491 Application for exemption from compulsory ship radio requirements.

Applications for exemption filed under the provisions of sections 352(b) or 383 of the Communications Act; Regulation 4, chapter I of the Safety Convention; Regulation 5, chapter IV of the Safety Convention; or subpart T of Part 80, must be filed as a waiver request using the procedures specified in § 0.482. Emergency requests must be filed via the Universal Licensing System or at the Federal Communications Commission, Office of the Secretary.

PART 80—STATIONS IN THE MARITIME SERVICES

■ 4. The authority citation for part 80 continues to read as follows:

Authority: 47 U.S.C. 151–155, 301–609; 3 U.S.T. 3450, 12 U.S.T. 2377.

■ 5. Amend § 80.1 by revising paragraph (a) to read as follows:

§ 80.1 Basis and purpose.

* * * * *

(a) *Basis.* The rules for the maritime services in this part are promulgated under the provisions of the Communications Act of 1934, as amended, which vests authority in the Federal Communications Commission to regulate radio transmission and to issue licenses for radio stations. The rules in this part are in accordance with applicable statutes, international treaties, agreements and recommendations to which the United States is a party. The most significant of these documents are listed below with the short title appearing in parenthesis:

(1) Communications Act of 1934, as amended—(Communications Act).

(2) Communications Satellite Act of 1962, as amended—(Communications Satellite Act).

(3) International Telecommunication Union Radio Regulations, in force for the United States—(Radio Regulations).

(4) International Convention for Safety of Life at Sea, 1974, as amended, and the Annex thereto—(Safety Convention).

(5) Vessel Bridge-to-Bridge Radiotelephone Act—(Bridge-to-Bridge Act).

* * * * *

■ 6. Amend § 80.5 by revising paragraphs (3) and (6) of the definition of ''Categories of ships'' and revising the definition of ''Great Lakes'' to read as follows:

§ 80.5 Definitions.

* * * * *

Categories of ships. * * *

(3) The term *passenger carrying vessel,* when used in reference to Part III, Title III of the Communications Act or subpart T of this part, means any ship transporting more than six passengers for hire.

* * * * *

(6) *Compulsory ship.* Any ship which is required to be equipped with radiotelecommunication equipment in order to comply with the radio or radio-navigation provisions of a treaty, statute, or subpart T of this part to which the vessel is subject.

* * * * *

Great Lakes. This term means all of Lakes Ontario, Erie, Huron (including Georgian Bay), Michigan, Superior, their connecting and tributary waters and the St. Lawrence River as far east as the lower exit of the St. Lambert Lock at Montreal in the Province of Quebec, Canada, but does not include any connecting and tributary waters other than: the St. Marys River, the St. Clair River, Lake St. Clair, the Detroit River and the Welland Canal.

* * * * *

■ 7. Amend § 80.59 by revising paragraphs (a) introductory text, (a)(1) introductory text, (b), and (c)(1) introductory text to read as follows:

§ 80.59 Compulsory ship inspections.

(a) Inspection of ships subject to part II or III of title III of the Communications Act or the Safety Convention.

(1) The FCC will not normally conduct the required inspections of ships subject to the inspection requirements of part II or III of title III of Communications Act or the Safety Convention.

* * * * *

(b) Inspection and certification of a ship subject to subpart T of this part. The FCC will not inspect vessels that are subject to subpart T of this part. An inspection and certification of a ship subject to subpart T of this part must be made by a technician holding one of the following: an FCC General Radiotelephone Operator License, a GMDSS Radio Maintainer's License, a Second Class Radiotelegraph Operator's Certificate, a First Class Radiotelegraph Operator's Certificate, or a Radiotelegraph Operator License. The certification required by § 80.953 must be entered into the ship's log. The technician conducting the inspection and providing the certification must not be the vessel's owner, operator, master, or an employee of any of them. Additionally, the vessel owner, operator, or ship's master must certify that the inspection was satisfactory. There are no FCC prior notice requirements for any inspection under this section.

(c) * * *

(1) Applications for exemption from the radio provisions of part II or III of title III of the Communications Act, the Safety Convention, or subpart T of this part, or for modification or renewal of an exemption previously granted must be filed as a waiver request using FCC Form 605. Waiver requests must include the following information:

* * * * *

■ 8. Revise § 80.161 to read as follows:

§ 80.161 Operator requirements for subpart T vessels on the Great Lakes.

Each ship subject to subpart T of this part must have on board an officer or member of the crew who holds a marine radio operator permit or higher class license.

■ 9. Amend § 80.308 by revising the section heading and paragraph (a) introductory text to read as follows:

§ 80.308 Watch required for subpart T vessels on the Great Lakes.

(a) Each ship of the United States that is equipped with a radiotelephone station for compliance with subpart T of this part must when underway keep a watch on:

* * * * *

■ 10. Revise § 80.401 to read as follows:

§ 80.401 Station documents requirement.

Licensees of radio stations are required to have current station documents as indicated in the following table:

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	LEGEND: R = REQUIRED Documents:	Station License	Appropriate Operator Authorization	Station Logs	Appropriate Safety Convention Certificate	Communications Act Safety Certificate	Great Lakes Safety Certificate	Bridge-to-Bridge Act Safety Certificate	Part 80: FCC Rules and Regulations	Alphabetical List of Maritime Mobile Call Signs	List of Ship Stations	Manual for Use by Maritime Mobile (M/M) Service and M/M Satellite Service	List of Coast Stations	List pf Radiodetermination and Speed Services Stations	Station Equipment Records	GMDSS Master Plan	NGA Publication 117	Admiralty List of Radio Signals	IMO Circ. 7
	Radio Station Category																		
Ship:	Cargo ships (300 tons and up)	R[1]	R	R	R				R	R[6]	R[6]	R	R[5]	R		R[5]	R	R[5]	R[5]
	Passenger Vessels – SOLAS	R[1]	R	R		R			R	R	R	R	R[5]	R		R[5]	R	R[5]	R[5]
	Passenger Vessels – Domestic	R[1]	R	R					R										
	Telephone; Subpart T Great Lakes Vessels	R	R	R[4]			R[4]												
	Telephone; Bridge-to-Bridge Act	R	R	R				R											
	Radar	R																	
	On Board	R													R				
	Voluntary	R																	
Land:	Public Coast (MF)	R	R	R					R	R[3]	R[3]	R[3]							
	Public Coast (HF)	R	R	R					R	R	R	R							
	Public Coast (VHF)	R	R	R					R										
	Private Coast	R	R																
	Radio Determination	R	R																
	Operational Fixed	R	R																
	Maritime Support	R	R																
	Alaska – Public Fixed	R	R	R															
	Alaska – Private Fixed	R	R																
Ship/ Coast	Marine Utility	R	R																

BILLING CODE 6712–01–C

Notes: 1. The expired station license must be retained in the station records until the first Commission inspection after the expiration date.

2. Alternatively, a list of coast stations maintained by the licensee with which communications are likely to be conducted, showing watch-keeping hours, frequencies and charges, is authorized.

3. Required only if station provides a service to ocean-going vessels.

4. Certification of a Great Lakes inspection may be made by either a log entry or issuance of a Great Lakes certificate. The ship's radiotelephone logs containing entries certifying that a Great Lakes safety inspection has been conducted must be retained on board and available for inspection until the next radio inspection.

5. The requirements for having the GMDSS Master Plan, NGA Publication 117, Admiralty List of Radio Signals or IMO Circ. 7 are satisfied by having any one of those four documents.

■ 11. Amend § 80.409 by revising paragraphs (f)(1) introductory text and (f)(2) introductory text and paragraph (f)(2)(v) to read as follows:

§ 80.409 Station logs.

* * * * *

(f) * * *

(1) Radiotelephony stations subject to part II or III of title III of the Communications Act and/or the Safety Convention must record entries indicated by paragraphs (e)(1) through (13) of this section. Additionally, the radiotelephone log must provide an easily identifiable, separate section relating to the required inspection of the ship's radio station. Entries must be made in this section giving at least the following information.

* * * * *

(2) Radiotelephony stations subject to subpart T of this part and the Bridge-to-Bridge Act must record entries indicated by paragraphs (e)(1), (3), (5), (6), (7), (8), (10), (11), and (13) of this section. Additionally, the radiotelephone log must provide an easily identifiable, separate section relating to the required inspection of the ship's radio station. Entries must be made in this section giving at least the following information:

* * * * *

(v) The inspector's signed and dated certification that the vessel meets the requirements for certain vessels operating in the Great Lakes and of the Bridge-to-Bridge Act contained in subparts T and U of this part and has successfully passed the inspection; and

* * * * *

■ 12. Amend § 80.411 by revising paragraph (b) to read as follows:

§ 80.411 Vessel certification or exemption.

* * * * *

(b) *Posting.* Part II or III of Title III of the Communications Act, Safety Convention, and Great Lakes certificates or exemptions must be posted in a prominent, accessible place in the ship. Ships subject to subpart T of this part may, in lieu of a posted certificate, certify compliance in the station log required by § 80.409(f).

■ 13. Revise subpart T to read as follows:

Subpart T—Radiotelephone Installation Required for Vessels on the Great Lakes

Sec.

Subpart T—Radiotelephone Installation Required for Vessels on the Great Lakes

§ 80.951 Applicability.

The rules in this subpart apply to vessels of all countries when navigated on the Great Lakes. The Great Lakes are defined as all waters of Lakes Ontario, Erie, Huron (including Georgian Bay), Michigan, Superior, their connecting and tributary waters and the River St. Lawrence as far east as the lower exit of the St. Lambert Lock at Montreal in the Province of Quebec, Canada, but do not include any connecting and tributary waters except the St. Marys River, the St. Clair River, Lake St. Clair, the Detroit River and the Welland Canal. A vessel that falls into a category specified in paragraph (a), (b), or (c) of this section and is not excepted by paragraph (d) or (e) of this section must comply with this subpart while navigated on the Great Lakes.

(a) Every vessel 20 meters (65 feet) or over in length (measured from end to end over the deck, exclusive of sheer).

(b) Every vessel engaged in towing another vessel or floating object, except:

(1) Where the maximum length of the towing vessel, measured from end to end over the deck exclusive of sheer, is less than 8 meters (26 feet) and the length or breadth of the tow, exclusive of the towing line, is less than 20 meters (65 feet);

(2) Where the vessel towed complies with this subpart;

(3) Where the towing vessel and tow are located within a booming ground (an area in which logs are confined); or

(4) Where the tow has been undertaken in an emergency and neither the towing vessel nor the tow can comply with this part

(c) Any vessel carrying more than six passengers for hire.

(d) The requirements of this subpart do not apply to:

(1) Ships of war and troop ships;

(2) Vessels owned and operated by any national government and not engaged in trade.

(e) The Commission may if it considers that the conditions of the voyage or voyages affecting safety (including but not necessarily limited to the regularity, frequency and nature of the voyages, or other circumstances) are such as to render full application of the rules of this subpart unreasonable or unnecessary, exempt partially, conditionally or completely, any individual vessel for one or more voyages or for any period of time not exceeding one year.

§ 80.953 Inspection and certification.

(a) Each U.S. flag vessel subject to this subpart must have an inspection of the required radiotelephone installation at least once every 48 months. This inspection must be made while the vessel is in active service or within not more than one month before the date on which it is placed in service.

(b) An inspection and certification of a ship subject to this subpart must be made by a technician holding one of the following: a General Radiotelephone Operator License, a GMDSS Radio Maintainer's License, a Radiotelegraph Operator License, a Second Class Radiotelegraph Operator's Certificate, or a First Class Radiotelegraph Operator's Certificate. Additionally, the technician must not be the vessel's owner, operator, master, or an employee of any of them. The results of the inspection must be recorded in the ship's radiotelephone log and include:

(1) The date the inspection was conducted;

(2) The date by which the next inspection needs to be completed;

(3) The inspector's printed name, address, class of FCC license (including the serial number);

(4) The results of the inspection, including any repairs made; and

(5) The inspector's signed and dated certification that the vessel meets the requirements contained in this subpart and the Bridge-to-Bridge Act contained in subpart U of this part and has successfully passed the inspection.

(c) The vessel owner, operator, or ship's master must certify that the inspection required by paragraph (b) of this section was satisfactory.

(d) The ship's radiotelephone logs containing entries certifying that a Great Lakes safety inspection has been conducted must be retained on board and available for inspection until the next radio inspection.

§ 80.955 Radiotelephone installation.

(a) Each U.S. flag vessel of less than 38 meters (124 feet) in length while subject to this subpart must have a radiotelephone meeting the provisions of this subpart in addition to the other rules in this part governing ship stations using telephony.

(b) Each U.S. flag vessel of 38 meters (124 feet) or more in length while subject to this subpart must have a minimum of two VHF radiotelephone installations in operating condition meeting the provisions of this subpart. The second VHF installation must be electrically separate from the first VHF installation. However, both may be connected to the main power supply provided one installation can be operated from a separate power supply located as high as practicable on the vessel.

(c) This paragraph does not require or prohibit the use of other frequencies for use by the same ''radiotelephone installation'' for communication authorized by this part.

§ 80.956 Required frequencies and uses.

(a) Each VHF radiotelephone installation must be capable of transmitting and receiving G3E emission as follows:

(1) Channel 16—156.800 MHz—Distress, Safety and Calling; and

(2) Channel 6—156.300 MHz—Primary intership.

(b) The radiotelephone station must have additional frequencies as follows:

(1) Those ship movement frequencies appropriate to the vessel's area of operation: Channel 11—156.550 MHz, Channel 12—156.600 MHz, or Channel 14—156.700 MHz.

(2) The navigational bridge-to-bridge frequency, 156.650 MHz (channel 13).

(3) Such other frequencies as required for the vessel's service.

(4) One channel for receiving marine navigational warnings for the area of operation.

(c) Every radiotelephone station must include one or more transmitters, one or more receivers, one or more sources of energy and associated antennas and control equipment. The radiotelephone station, exclusive of the antennas and source of energy, must be located as high as practicable on the vessel, preferably on the bridge, and protected from water, temperature, and electrical and mechanical noise.

§ 80.957 Principal operating position.

(a) The principal operating position of the radiotelephone installation must be on the bridge, convenient to the conning position.

(b) When the radiotelephone station is not located on the bridge, operational control of the equipment must be provided at the location of the radiotelephone station and at the bridge operating position. Complete control of the equipment at the bridge operating position must be provided.

§ 80.959 Radiotelephone transmitter.

(a) The transmitter must be capable of transmission of G3E emission on the required frequencies.

(b) The transmitter must deliver a carrier power of between 10 watts and 25 watts into 50 ohms nominal resistance when operated with its rated supply voltage. The transmitter must be capable of readily reducing the carrier power to one watt or less.

(c) To demonstrate the capability of the transmitter, measurements of primary supply voltage and transmitter output power must be made with the equipment operating on the vessel's main power supply, as follows:

(1) The primary supply voltage measured at the power input terminals to the transmitter terminated in a matching artificial load, must be measured at the end of 10 minutes of continuous operation of the transmitter at its rated power output.

(2) The primary supply voltage, measured in accordance with the procedures of this paragraph, must be not less than 11.5 volts.

(3) The transmitter at full output power measured in accordance with the procedure of this paragraph must not be less than 10 watts.

§ 80.961 Radiotelephone receiver.

(a) The receiver must be capable of reception of G3E emission on the required frequencies.

(b) The receiver must have a sensitivity of at least 2 microvolts across 50 ohms for a 20 decibel signal-to-noise ratio.

§ 80.963 Main power supply.

(a) A main power supply must be available at all times while the vessel is subject to the requirements of this subpart.

(b) Means must be provided for charging any batteries used as a source of energy. A device which during charging of the batteries gives a continuous indication of charging current must be provided.

§ 80.965 Reserve power supply.

(a) Each passenger vessel of more than 100 gross tons and each cargo vessel of more than 300 gross tons must be provided with a reserve power supply independent of the vessel's normal electrical system and capable of energizing the radiotelephone installation and illuminating the operating controls at the principal operating position for at least 2 continuous hours under normal operating conditions. When meeting this 2-hour requirement, such reserve power supply must be located on the bridge level or at least one deck above the vessel's main deck.

(b) Instead of the independent power supply specified in paragraph (a) of this section, the vessel may be provided with an auxiliary radiotelephone installation having a power source independent of the vessel's normal electrical system. Any such installation must comply with §§ 80.955, 80.956, 80.957, 80.959, 80.961, 80.969 and 80.971, as well as the general technical standards contained in this part. Additionally, the power supply for any such auxiliary radiotelephone must be a ''reserve power supply'' for the purposes of paragraphs (c), (d) and (e) of this section.

(c) Means must be provided for adequately charging any batteries used as a reserve power supply for the required radiotelephone installation. A device must be provided which, during charging of the batteries, gives a continuous indication of charging.

(d) The reserve power supply must be available within one minute.

(e) The station licensee, when directed by the Commission, must prove by demonstration as prescribed in paragraphs (e)(1), (2), (3), and (4) of this section that the reserve power supply is capable of meeting the requirements of paragraph (a) of this section as follows:

(1) When the reserve power supply includes a battery, proof of the ability of the battery to operate continuously for the required time must be established by a discharge test over the required time, when supplying power at the voltage required for normal operation to an electric load as prescribed by paragraph (e)(3) of this section.

(2) When the reserve power supply includes an engine driven generator, proof of the adequacy of the engine fuel supply to operate the unit continuously for the required time may be established by using as a basis the fuel consumption during a continuous period of one hour when supplying power, at the voltage required for normal operation, to an electrical load as prescribed by paragraph (e)(3) of this section.

(3) For the purposes of determining the electrical load to be supplied, the following formula must be used:

(i) One-half of the current of the radiotelephone while transmitting at its rated output, plus one-half the current while not transmitting; plus

(ii) Current of the required receiver; plus

(iii) Current of the source of illumination provided for the operating controls prescribed by § 80.969; plus

(iv) The sum of the currents of all other loads to which the reserve power supply may provide power in time of emergency or distress.

(4) At the conclusion of the test specified in paragraphs (e)(1) and (2) of this section, no part of the reserve power supply must have excessive temperature rise, nor must the specific gravity or voltage of any battery be below the 90 percent discharge point.

§ 80.967 Antenna system.

The antenna must be omnidirectional, vertically polarized and located as high as practicable on the masts or superstructure of the vessel.

§ 80.969 Illumination of operating controls.

(a) The radiotelephone must have dial lights which illuminate the operating controls at the principal operating position.

(b) Instead of dial lights, a light from an electric lamp may be provided to illuminate the operating controls of the radiotelephone at the principal operating position. If a reserve power supply is required, arrangements must permit the use of that power supply for illumination within one minute.

§ 80.971 Test of radiotelephone installation.

At least once during each calendar day a vessel subject to this subpart must test communications on 156.800 MHz to demonstrate that the radiotelephone installation is in proper operating condition unless the normal daily use of the equipment demonstrates that this installation is in proper operating condition. If equipment is not in operating condition, the master must have it restored to effective operation as soon as possible.

■ 14. Revise § 80.1005 to read as follows:

§ 80.1005 Inspection of station.

The bridge-to-bridge radiotelephone station will be inspected on vessels subject to regular inspections pursuant to the requirements of Parts II and III of Title III of the Communications Act, the Safety Convention, or subpart T of this part at the time of the regular inspection. If after such inspection, the Commission determines that the Bridge-to-Bridge Act, the rules of the Commission and the station license are met, an endorsement will be made on the appropriate document. The validity of the endorsement will run concurrently with the period of the regular inspection. Each vessel must carry a certificate with a valid endorsement while subject to the Bridge-to-Bridge Act. All other bridge-to-bridge stations will be inspected from time-to-time. An inspection of the bridge-to-bridge station on a vessel subject to subpart T of this part must normally be made at the same time as the inspection required under subpart T of this part and must be conducted by a technician holding one of the following: a General Radiotelephone Operator License, a GMDSS Radio Maintainer's License, a Radiotelegraph Operator License, a Second Class Radiotelegraph Operator's Certificate, or a First Class Radiotelegraph Operator's Certificate. Additionally, the technician must not be the vessel's owner, operator, master, or an employee of any of them. Ships subject to the Bridge-to-Bridge Act may, in lieu of an endorsed certificate, certify compliance in the station log required by section 80.409(f).

■ 15. Amend § 80.1065 by revising paragraph (b) to read as follows:

§ 80.1065 Applicability.

* * * * *

(b) The requirements of this subpart do not modify the requirements for ships navigated on the Great Lakes or small passenger boats. The requirements contained in subpart T of this part continue to apply. The requirements contained in part III of title III of the Communications Act continue to apply (see subpart S of this part).

* * * * *

[FR Doc. 2023–24678 Filed 11–8–23; 8:45 am]

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAC 2023–06; FAR Case 2020–011; Item I; Docket No. FAR–2020–0011, Sequence No. 1]

RIN 9000–AO13

Federal Acquisition Regulation: Implementation of Federal Acquisition Supply Chain Security Act (FASCSA) Orders; Correction

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule, correction.

SUMMARY: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement supply chain risk information sharing and exclusion or removal orders consistent with the Federal Acquisition Supply Chain Security Act of 2018 and a final rule issued by the Federal Acquisition Security Council.

DATES: *Effective date:* December 4, 2023.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Ms. Marissa Ryba, Procurement Analyst, at 314–586–1280 or by email at *Marissa.Ryba@gsa.gov.* For information pertaining to status, publication schedules, or alternate instructions for submitting comments if *https://www.regulations.gov* cannot be used, contact the Regulatory Secretariat Division at 202–501–4755 or *GSARegSec@gsa.gov.* Please cite FAC 2023–06, FAR Case 2020–011.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA are correcting amendatory instructions under part 52, for sections 52.212–5, 52.213–4 and 52.244–6.

In the FR Doc. 2023–21320, published in the **Federal Register** at 88 FR 69503–69517 in the issue of October 5, 2023, make the following corrections:

52.212–5 [Corrected]

■ 1. On pages 69516–69517, amendatory instruction 12 and the associated added and revised text, are corrected to read:

■ 12. Amend section 52.212–5 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (a)(2) ''Lab and Other Covered Entities (NOV 2021)'' and adding ''Lab Covered Entities (DEC 2023)'' in its place;

■ c. Redesignating paragraphs (b)(10) through (65) as paragraphs (b)(12) through (67) and adding new paragraphs (b)(10) and (11);

■ d. Removing from paragraph (e)(1)(iv) ''Lab and Other Covered Entities (NOV 2021)'' and adding ''Lab Covered Entities (DEC 2023)'' in its place;

■ e. Redesignating paragraphs (e)(1)(vii) through (xxv) as paragraphs (e)(1)(viii) through (xxvi) and adding a new paragraph (e)(1)(vii);

■ f. In Alternate II—

■ i. Revising the date;

■ ii. Removing from paragraph (e)(1)(ii)(D) ''Lab and Other Covered Entities (NOV 2021)'' and adding ''Lab Covered Entities (DEC 2023)'' in its place; and

■ iii. Redesignating paragraphs (e)(1)(ii)(G) through (X) as paragraphs (e)(1)(ii)(H) through (Y) and adding a new paragraph (e)(1)(ii)(G).

The revisions and additions read as follows:

52.212–5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders-Commercial Products and Commercial Services.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Products and Commercial Services (DEC 2023)

(b) * * *

__ (10) 52.204–28, Federal Acquisition Supply Chain Security Act Orders—Federal Supply Schedules, Governmentwide Acquisition Contracts, and Multi-Agency Contracts. (DEC 2023) (Pub. L. 115–390, title II).

__ (11)(i) 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition. (DEC 2023) (Pub. L. 115–390, title II).

__ (ii) Alternate I (DEC 2023) of 52.204–30.

* * * * *

(e)(1) * * *

(vii)(A) 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition. (DEC 2023) (Pub. L. 115–390, title II).

(B) Alternate I (DEC 2023) of 52.204–30.

* * * * *

Alternate II. (DEC 2023) * * *

(e)(1) * * *

(ii) * * *

(G)(*1*) 52.204–30, Federal Acquisition Supply Chain Security Act Orders—

Prohibition. (DEC 2023) (Pub. L. 115–390, title II).

(*2*) Alternate I (DEC 2023) of 52.204–30.

* * * * *

52.213–4 [Corrected]

■ 2. On page 69517, in the first column, correct instruction number 13.d., to read as follows:

■ d. Removing from paragraph (a)(2)(vii) ''(NOV 2023)'' and adding ''(DEC 2023)'' in its place.

52.244–6 [Corrected]

■ 3. On page 69517, amendatory instruction 14 and the associated added and revised text, are corrected to read:

■ 14. Amend section 52.244–6 by—

■ a. Revising the date of the clause;

■ b. Removing from paragraph (c)(1)(vi) ''Lab and Other Covered Entities (NOV 2021)'' and adding ''Lab Covered Entities (DEC 2023)'' in its place; and

■ c. Redesignating paragraphs (c)(1)(ix) through (xxii) as paragraphs (c)(1)(x) through (xxiii) and adding a new paragraph (c)(1)(ix) in its place.

The revision and addition read as follows:

52.244–6 Subcontracts for Commercial Products and Commercial Services.

* * * * *

Subcontracts for Commercial Products and Commercial Services (DEC 2023)

* * * * *

(c)(1) * * *

(ix)(A) 52.204–30, Federal Acquisition Supply Chain Security Act Orders—Prohibition. (DEC 2023) (Pub. L. 115–390, title II).

(B) Alternate I (DEC 2023) of 52.204–30.

* * * * *

William F. Clark,

Director, Office of Government-Wide Acquisition Policy, Office of Acquisition Policy, Office of Government-Wide Policy.

[FR Doc. 2023–24275 Filed 11–8–23; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA–2023–0003]

RIN 2127–AM59

Federal Motor Vehicle Theft Prevention Standard; Final Listing of 2021 Light Duty Truck Lines Subject to the Requirements of This Standard and Exempted Vehicle Lines for Model Year 2021

AGENCY: National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule announces NHTSA's determination that there are no new model year (MY) 2021 light duty truck lines subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard. The agency determined no new models were high-theft or had major parts that are interchangeable with a majority of the covered major parts of passenger car or multipurpose passenger vehicle lines. This final rule also identifies those vehicle lines that have been granted an exemption from the parts-marking requirements because they are equipped with antitheft devices determined to meet certain criteria. Lastly, this final rule identifies vehicle lines that have not been manufactured for the United States market in over 5 years.

DATES: This final rule is effective November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Ms. Carlita Ballard, Office of International Policy, Fuel Economy and Consumer Programs, NHTSA, West Building, W43–439, NRM–310, 1200 New Jersey Avenue SE, Washington, DC 20590. Ms. Ballard's phone number is (202) 366–5222. Her fax number is (202) 493–2990.

SUPPLEMENTARY INFORMATION: The theft prevention standard (49 CFR part 541) applies to (1) all passenger car lines; (2) all multipurpose passenger vehicle (MPV) lines with a gross vehicle weight rating (GVWR) of 6,000 pounds or less; (3) low-theft light-duty truck (LDT) lines with a GVWR of 6,000 pounds or less that have major parts that are interchangeable with a majority of the covered major parts of passenger car or MPV lines; and (4) high-theft LDT lines with a GVWR of 6,000 pounds or less.

The purpose of the theft prevention standard is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The theft prevention standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines subject to the requirements of the standard.

The statue at 49 U.S.C. 33104(d) provides that once a line has become subject to the theft prevention standard, the line remains subject to the requirements of the standard unless it is exempted under 49 U.S.C. 33106. Section 33106 provides that a manufacturer may petition annually to have one vehicle line exempted from the requirements of section 33104, if the line is equipped with an antitheft device meeting certain conditions as standard equipment. The exemption is granted if NHTSA determines that the antitheft device is likely to be as effective as compliance with the theft prevention standard in reducing and deterring motor vehicle thefts.

The regulations at 49 CFR part 543 establish the process through which manufacturers may seek an exemption from the theft prevention standard. Manufacturers may request an exemption under 49 CFR 543.6 by providing specific information about the antitheft device, its capabilities, and the reasons the petitioner believes the device to be as effective at reducing and deterring theft as compliance with the parts-marking requirements,[1] or manufacturers may request an exemption under a more streamlined process outlined in 49 CFR 543.7 if the vehicle line is equipped with an antitheft device (an ''immobilizer'') as standard equipment that complies with one of the standards specified in that section.[2] If the exemption is sought under 49 CFR 543.6, NHTSA publishes a notice of its decision to grant or deny the exemption petition in the **Federal Register** and notifies the petitioner in writing. If the petition is sought under section 49 CFR 543.7, NHTSA notifies the petitioner in writing of the agency's decision to grant or deny the exemption petition.

NHTSA annually publishes the names of LDT lines NHTSA has determined to be high theft pursuant to 49 CFR part

[1] 49 CFR 543.6.

[2] 49 CFR 543.7.

541, LDT lines that NHTSA has determined to have major parts that are interchangeable with a majority of the covered major parts of passenger car or MPV lines, and vehicle lines that NHTSA has exempted from the theft prevention standard. Appendix A–I to part 541 identifies those LDT lines subject to the theft prevention standard beginning in a given model year. Appendix A–I to part 541 also lists those vehicle lines that NHTSA has exempted from the theft prevention standard.

Appendix A to Part 541—Lines Subject to the Requirements of This Standard

For MY 2021, there are no new LDT lines that will be subject to the theft prevention standard in accordance with the procedures published in 49 CFR part 542.

Appendix A–I identifies those vehicle lines that have been exempted by the agency from the parts-marking requirements of part 541 and is amended to include eight MY 2021 vehicle lines newly exempted in full. The eight exempted vehicle lines are the GM Chevrolet Trailblazer, Toyota Venza, Mazda CX–30, Jaguar Land Rover I-Pace, Hyundai Sonata Hybrid, Ford Bronco Sport, Volkswagen ID.4 and the Honda HR–V. NHTSA has either previously granted these exemption requests and published the determination in the **Federal Register** if the exemption was sought under 49 CFR 543.6 or has notified the manufacturer of the grant of exemption if the exemption was sought under 49 CFR 543.7.

Each year the agency also amends the appendices to part 541 to remove vehicle lines that have not been manufactured for the United States market in over 5 years. The agency believes that including those vehicle lines in the part 541 appendices would be unnecessary. Therefore, the agency is removing the BMW X1, Chrysler 200, Chrysler Jeep Patriot, Chrysler Town and Country MPV, GM Buick LaCrosse/Regal, GM Cadillac SRX, GM Chevrolet Malibu, Hyundai Azera, Hyundai Equus, Mazda 5, Mercedes E320 BLUETEC, Mitsubishi iMiEV, Mitsubishi Lancer, Nissan Juke, Nissan Quest and the Volkswagen Eos vehicle lines from the appendix A–I listing. However, NHTSA will continue to maintain a comprehensive database of all exemptions on our website.

The changes made in this rule are purely informational. The eight vehicle lines that will be added to appendix A–I of part 541 were granted exemptions in accordance with the procedures of 49 CFR part 543 and 49 U.S.C. 33106 and notices of the grants of those exemptions were published in the **Federal Register**, or the manufacturer was notified by grant letter. Therefore, NHTSA finds good cause under 5 U.S.C. 553(b)(3)(B) that notice and opportunity for comment on this final rule is unnecessary. Further, public comment on the listing of selections and exemptions is not contemplated by 49 U.S.C. Chapter 331. For the same reasons, since this revised listing only informs the public of previous agency actions and does not impose additional obligations on any party, NHTSA finds good cause under 5 U.S.C. 553(d)(3) to make the amendment made by this rule effective on the date this rule is published in the **Federal Register**.

Regulatory Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed by the Office of Management and Budget (OMB) under Executive Order (E.O.) 12866. It is not considered to be significant under E.O. 12866 or of significant note to the Department under DOT Order 2100.6A (''Rulemaking Guidance and Procedures''). The purpose of this final rule is to provide information to the public about vehicle lines that must comply with the parts-marking requirements of NHTSA's theft prevention standard and vehicles that NHTSA has exempted from those requirements. Since the purpose of the final rule is to inform the public of actions NHTSA has already taken, either determining that new lines are subject to parts-marking requirements or exempting vehicle lines from those requirements, the final rule will not impose any new burdens.

B. National Environmental Policy Act

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have a significant impact on the quality of the human environment as it merely informs the public about previous agency actions.

C. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in E.O. 13132 and has determined that it does not have sufficient Federal implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. As discussed above, this final rule only provides information to the public about previous agency actions.

D. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually ($120.7 million as adjusted annually for inflation with base year of 1995). The assessment may be combined with other assessments, as it is here.

This final rule will not result in expenditures by State, local or tribal governments or automobile manufacturers and/or their suppliers of more than $120.7 million annually. This document informs the public of previously granted exemptions. Since the only purpose of this final rule is to inform the public of previous actions taken by the agency, no new costs or burdens will result.

E. Executive Order 12988 (Civil Justice Reform)

Pursuant to E. O. 12988, ''Civil Justice Reform,'' [3] the agency has considered whether this final rule has any retroactive effect. The agency concludes that it would not have such an effect as it only informs the public of previous agency actions. In accordance with section 49 U.S.C. 33118, when a Federal theft prevention standard is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part. The statute at 49 U.S.C. 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. 32909. Section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct, sponsor, or require through regulations. There are no information collection requirements associated with this final rule.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 541 is amended as follows:

[3] *See* 61 FR 4729, February 7, 1996.

PART 541—FEDERAL MOTOR VEHICLE THEFT PREVENTION STANDARD

■ 1. The authority citation for part 541 continues to read as follows:

Authority: 49 U.S.C. 33101, 33102, 33103, 33104, 33105 and 33106; delegation of authority at 49 CFR 1.95.

■ 2. Appendix A–I to part 541 is revised to read as follows:

Appendix A–I to Part 541—Lines With Antitheft Devices Which Are Exempted From the Parts-Marking Requirements of This Standard Pursuant to 49 CFR Part 543

Manufacturer	Subject lines
BMW	MINI, MINI Countryman (MPV), X1 (MPV), X2 (MPV), X3 (MPV), X4 (MPV), X5 (MPV), Z4, 2 Series, 3 Series, 4 Series, 5 Series, 6 Series, 7 Series, 8 Series.
CHRYSLER	300, Dodge Charger, Dodge Challenger, Dodge Dart, Dodge Journey, Fiat 500, Fiat 124 Spider, Jeep Cherokee, Jeep Compass, Jeep Grand Cherokee (MPV), Jeep Gladiator, Jeep Wrangler/Wrangler JK,[2] Jeep Wrangler JL.
FORD MOTOR CO	Bronco Sport,[1] C-Max, EcoSport, Edge, Escape, Explorer, Fiesta, Focus, Fusion, Lincoln Corsair, Lincoln MKC, Lincoln MKX, Lincoln Nautilus, Mustang.
GENERAL MOTORS	Buick Encore, Buick Verano, Cadillac ATS, Cadillac CTS, Cadillac XTS, Cadillac XT4, Chevrolet Bolt, Chevrolet Camaro, Chevrolet Corvette, Chevrolet Cruze, Chevrolet Equinox, Chevrolet Impala/Monte Carlo, Chevrolet Sonic, Chevrolet Spark, Chevrolet Trailblazer,[1] Chevrolet Volt, GMC Terrain.
HONDA	Accord, Acura TLX, Acura MDX, Civic, CR–V, HR–V,[1] Passport, Pilot.
HYUNDAI	Genesis G70, Genesis G80,[3] IONIQ, Sonata/Hybrid.[1]
JAGUAR	F-Type, XE, XF, XJ, Land Rover Discovery Sport, Land Rover E-Pace, Land Rover F-Pace, Land Rover I-Pace,[1] Land Rover Range Rover Evoque, Land Rover Velar.
KIA	Niro, Stinger.
MASERATI	Ghibli, Levante (SUV), Quattroporte.
MAZDA	2, 3, 6, CX–3, CX–5, CX–9, CX–30,[1] MX–5 Miata.
MERCEDES-BENZ	smart Line Chassis, smart USA fortwo. SL-Line Chassis (SL-Class), (the models within this line are): SL400/SL450, SL550, SL 63/AMG, SL 65/AMG. SLK-Line Chassis (SLK-Class/SLC-Class) (the models within this line are): SLK 250, SLK 300, SLK 350, SLK 55 AMG, SLC 300 AMG, SLC 43. S-Line Chassis (S/CL/S-Coupe Class/S-Class Cabriolet/Mercedes Maybach) (the models within this line are): S400 Hybrid, S550, S600, S63 AMG, S65 AMG, Mercedes-Maybach S560, Mercedes-Maybach S650, CL550, CL600, CL63 AMG, CL65 AMG. NGCC Chassis Line (CLA/GLA/B-Class/A-Class) (the models within this line are): A220, B250e, CLA250, CLA45 AMG, GLA250, GLA45 AMG. C-Line Chassis (C-Class/CLK/GLK-Class/GLC-Class) (the models within this line are): C63 AMG, C240, C250, C300, C350, CLK 350, CLK 550, CLK 63AMG, GLK250, GLK350. E-Line Chassis (E-Class/CLS Class) (the models within this line are): E55, E63 AMG, E350 BLUETEC, E320/E320DT CDi, E350/E500/E550, E400 HYBRID, CLS400, CLS500/550, CLS55 AMG, CLS63 AMG.
MITSUBISHI	Eclipse Cross, Outlander, Outlander Sport, Mirage.
NISSAN	Altima, Leaf, Maxima, Murano, NV200 Taxi, Pathfinder, Rogue, Kicks, Sentra, Infiniti Q70, Infiniti Q50/60, Infiniti QX50,[5] Infiniti QX60, Versa.
PORSCHE	911, Boxster/Cayman, Macan, Panamera, Taycan.
SUBARU	Ascent, Forester, Impreza, Legacy, Outback, WRX, XV Crosstrek/Crosstrek.[4]
TESLA	Model 3, Model S, Model X, Model Y.
TOYOTA	Avalon, Camry, Corolla, C–HR, Highlander, Lexus ES, Lexus GS, Lexus LS, Lexus NX, Lexus RX, Prius, RAV4, Sienna, Venza.[1]
VOLKSWAGEN	Atlas, Beetle, ID.4,[1] Jetta, Passat, Tiguan, Golf/Golf Sport wagen/eGolf/Alltrack, Audi A3, Audi A4, Audi A4Allroad MPV, Audi A6, Audi A8, Audi Q3, Audi Q5, Audi TT.
VOLVO	S60.

[1] Granted an exemption from the parts-marking requirements beginning with MY 2021.
[2] Jeep Wrangler (2009–2019) nameplate changed to Jeep Wrangler JK, JK discontinued after MY 2018
[3] Hyundai discontinued use of its parts-marking exemption for the Genesis vehicle line beginning with the 2010 model year, line was reintroduced as the Genesis G80.
[4] Subaru XV Crosstrek nameplate changed to Crosstrek beginning with MY 2016.
[5] Nissan's QX50 was granted an exemption for MY 2019 and added the QX55 SUV model to its line starting with MY 2021.

Issued under authority delegated in 49 CFR 1.95, and 501.5.

Ann E. Carlson,

Acting Administrator.

[FR Doc. 2023–24611 Filed 11–8–23; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 231031–0255]

RIN 0648–BL69

Monitoring Requirements for Pot Catcher/Processors Participating in Bering Sea/Aleutian Islands Groundfish Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to revise the monitoring requirements for pot gear catcher/processors (CPs) participating in Bering Sea/Aleutian Islands (BSAI) groundfish fisheries. This action is needed to address management challenges created by observer data collection errors that have impacted catch estimates. This action improves observer data collection by requiring participating CPs to carry a Level 2 observer and comply with pre-cruise meeting notifications and by requiring certification and testing standards for participants choosing any of the following voluntary monitoring options: providing observer sampling stations, installing motion-compensated platform and flow scales, and carrying additional observers on the vessel. Additionally, this action changes the location of existing monitoring regulations for longline CPs and halibut deck sorting by moving them under a single, new subpart within the regulations. This action promotes the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Fishery Management Plan (FMP) for Groundfish of the BSAI Management Area (BSAI FMP), and other applicable laws.

DATES: This rule is effective December 11, 2023.

ADDRESSES: Electronic copies of the Regulatory Impact Review (RIR; referred to as the Analysis) prepared for this action are available from *https://www.regulations.gov* or from the NMFS Alaska Region website at *https://www.fisheries.noaa.gov/region/alaska.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Gretchen Harrington; and to *https://www.reginfo.gov/public/do/PRAMain.* Find the information collections by selecting ''Currently under Review'' or by using the search function and entering the title of the collection.

FOR FURTHER INFORMATION CONTACT: Joel Kraski, 907–586–7228, *joel.kraski@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS published a proposed rule in the **Federal Register** on July 6, 2023 (88 FR 43072), with public comments invited through August 7, 2023. NMFS received one comment letter on the proposed rule. A summary of the comment and NMFS' response are provided under the heading Comments and Responses section below.

Background

This final rule is intended to improve data collection by observers deployed by the North Pacific Observer Program (Observer Program) for management of the BSAI pot gear CP sector (referred to as BSAI pot CP sector throughout) by revising the existing observer-associated monitoring requirements for the BSAI pot CP sector. At its February 2023 meeting, the North Pacific Fishery Management Council (Council) took final action to recommend additional monitoring requirements for the BSAI pot CP sector. The following sections of this preamble generally describe the following: (1) the North Pacific Observer Program, (2) the BSAI pot CP sector, (3) and this final rule. A more-detailed description of the North Pacific Observer Program, the BSAI pot CP sector, and the need for this action is provided in the preamble to the proposed rule and in the Analysis and is not repeated here.

North Pacific Observer Program

The Observer Program is an integral component in the management of North Pacific fisheries. The Observer Program was created with the implementation of the Magnuson-Stevens Act in the mid-1970s and has evolved from primarily observing foreign fleets to observing domestic fleets, including the BSAI pot CP sector. Regulations at subpart E of 50 CFR part 679 implement the Observer Program and describe how NMFS-certified observers will be deployed on board vessels and in processing plants to obtain information necessary for the conservation and management of the groundfish and halibut fisheries off Alaska. The information collected by observers contributes to the best available scientific information used to manage the fisheries under the Magnuson-Stevens Act.

Observers collect biological samples and gather information on total catch, including bycatch and interactions with protected species. Fishery managers use data collected by observers to manage groundfish catch and bycatch limits established in regulation and to inform the development of management measures that minimize bycatch and reduce fishery interactions with protected resources. Scientists use observer-collected data for stock assessments and marine ecosystem research.

Bering Sea/Aleutian Islands Pot CP Sector

The BSAI pot CP sector is managed in part under the License Limitation Program (LLP), which requires an LLP license endorsed for the directed fishing of groundfish in the BSAI. The LLP was recommended by the Council and approved and implemented by NMFS to address concerns of excess fishing capacity. The LLP limits the number, size, and specific operation of vessels deployed in the groundfish fisheries in the Exclusive Economic Zone off Alaska (63 FR 52642, October 1, 1998; § 679.4(k)(4)). The BSAI pot CP sector is relatively small, with only eight LLP licenses that are endorsed to allow CPs to fish for Pacific cod with pot gear in the Bering Sea (BS) or Aleutian Islands (AI), and only six of which were actively used to fish in 2022.

The BSAI pot CP sector targets primarily Pacific cod using pot gear with single lines. Each vessel is currently required to deploy a certified observer to monitor their fishing activity. Pacific cod seasons in the BSAI are often short, lasting approximately 1 to 2 weeks during the A season (beginning January 1) and the B season (beginning September 1) in recent years. The fast pace of fishing with pot gear, high sampling workload, and the need for close communication between the captain and observer make the BSAI pot CP sector one of the most difficult fisheries for the Observer Program to sample. This sector is separate from CPs using pot gear to target groundfish in the Community Development Quota (CDQ) Program (63 FR 30381, June 4, 1998), and this action does not change any aspect of the CDQ regulations (§ 679.32). The CDQ Program allocates a percentage of BSAI quota for groundfish, prohibited species, halibut, and crab to eligible communities. The CDQ program, which was established to provide eligible western Alaska villages with the opportunity to participate and invest in BSAI fisheries and to support the economic development of local economies in western Alaska, already

requires the same or stricter provisions as those set forth in this action for the non-CDQ pot CP sector.

This Final Rule

This action requires BSAI Pot CP Pacific Cod directed fishery participants to carry at least one Level 2 observer at all times, requires participants to comply with pre-cruise meeting notifications, and requires certification and testing standards for participants choosing any of the following voluntary monitoring options: providing observer sampling stations, installing motion-compensated platform and flow scales, and carrying additional observers. The three voluntary monitoring options for pot CP vessels included in this final rule establish regulations necessary to ensure the proper testing and maintenance of the equipment voluntarily installed by vessels to further improve the precision of observer data.

This final rule restructures subpart I and subpart K of 50 CFR part 679 to combine three sets of regulations under a single subpart, as follows: (1) existing regulations for longline CPs; (2) this action's regulations for pot CPs; and (3) existing regulations for CPs and motherships participating in the halibut deck sorting program. This restructuring makes no substantive changes to the regulatory requirements for longline CPs or the halibut deck sorting program but is necessary to streamline similar monitoring regulations for CPs and motherships, and thus provide the public easier access to the regulations. This final rule revises subpart I, which currently applies only to equipment and operational requirements for the longline CP subsector, so that subpart I will also apply to the equipment and operational requirements for pot CPs and for (non-pot) CPs and motherships participating in the halibut deck sorting program. This final rule changes the title of § 679.100 (from the current title, ''Applicability'') to ''Longline Catcher/Processor Subsector,'' changes the title of subpart I (from the current title of ''Equipment and Operational Requirements for the Longline Catcher/Processor Subsector'') to ''Additional Equipment and Operational Requirements for Motherships and Catcher/Processors,'' and changes all references to existing subpart I to new § 679.100. The regulations for the halibut deck sorting program, which are currently found at § 679.120 (titled ''Halibut deck sorting'') in subpart K (similarly entitled ''Halibut Deck Sorting''), are moved to subpart I and redesignated as § 679.102, with no other changes. As described further below, revised subpart I also includes new § 679.101, which contains the new pot CP monitoring requirements and is entitled, ''Catcher/processors using pot gear for groundfish fishing.'' In conclusion, these changes are intended to streamline and provide the public easier access to the regulations by placing similar monitoring regulations for CPs and motherships together in the same subpart rather than dispersed among other subparts where they are harder to locate.

This final rule includes three new monitoring regulatory elements for the BSAI pot CP sector. The first element adds paragraph (H) in § 679.51(a)(2)(vi) to require a minimum of one Level 2 observer on board a CP vessel using pot gear subject to § 679.101(a) at all times. These changes are intended to reduce the likelihood of fisheries data loss by ensuring experienced observers are deployed on board pot CP vessels. In addition, paragraph § 679.53(a)(5)(iv) (which states when a Level 2 endorsement is required) is revised to add a reference to the new § 679.51(a)(2)(vi)(H) requirement.

The second element of this final rule adds paragraph (a) in new § 679.101 to define the applicability of regulations at § 679.101 to the owner and operator of a vessel named on an LLP license with a Pacific cod CP pot gear endorsement in the Bering Sea, Aleutian Islands, or both. In addition, this final rule adds paragraph (b) in § 679.101 to require that vessels provide pre-cruise notification at least 24 hours prior to departure when the vessel will be carrying an observer who has not been deployed on that vessel within the last 12 months. In addition, when a pre-cruise meeting is requested by NMFS, the meeting must include the vessel operator or manager and the observers assigned to that vessel. These changes are intended to reduce the likelihood of data loss by ensuring effective communication and collaboration between the observer(s) and the captain and crew.

The third element of this final rule adds paragraph (c) in § 679.101 to include three additional voluntary monitoring options for pot CPs. The owner or operator of a vessel subject to this section may choose any, all, or none of these voluntary monitoring options: (1) providing a certified observer sampling station with a NMFS-approved motion-compensated platform (MCP) scale for observer use; (2) installing a motion-compensated, NMFS-approved scale to measure the total catch of Pacific cod, in conjunction with an MCP scale for testing, electronic logbook, and video monitoring; and (3) carrying additional observers on board. Each of these options is explained in further detail in the following sections.

Observer Sampling Station Option

The vessel operators have the option to choose to install an observer sampling station in accordance with the specifications and requirements in § 679.28(d), including a working area of 4.5 square meters, a worktable, and a MCP scale, all in proximity to where the observer can see gear retrieved and obtain fish samples (see Section 2.2.3.1 of the Analysis). An observer sampling station provides an organized workspace and higher precision equipment for observer use that improves observer data collection; however, installation of an observer sampling station can be costly. Section 679.101(c)(1) of this final rule applies if a vessel operator chooses to install an observer sampling station.

At-Sea Catch Weighing Option

This final rule adds regulations at § 679.101 to authorize use of a motion-compensated, NMFS-approved total weight scale, such as a flow or hopper scale, to measure total catch of Pacific cod, in conjunction with an MCP scale for testing, electronic logbook, and video monitoring (see Section 2.2.3.2 of Analysis). Use of a NMFS-approved scale to measure total catch of Pacific cod simplifies observer data collection of Pacific cod total haul weights on pot CP vessels and improves precision of catch estimates. Installation of a NMFS-approved scale can be costly. To ensure catch monitoring is effective if a CP vessel uses such a scale, this final rule includes regulations that apply if a vessel operator chooses to install this NMFS-approved MCP scale. With proper maintenance and testing, these types of haul-level measurements eliminate the uncertainty involved in estimating total catch using a randomized sample approach by providing a total weight of all retained catch.

If vessel operators choose to acquire such scales, they are required to maintain them in accordance with the scale requirements at § 679.28(b) to ensure data quality. These requirements include an initial inspection, followed by annual re-inspections by a NMFS-staff scale inspector. Additionally, daily testing by the vessel operator in the presence of an observer is required for each calendar day the scale is used at sea. In this testing, scales must perform within three percent of test weights using a NMFS-approved and certified MCP scale. More information about this testing can be found under the discussion of option 1 of element 3 in

the Analysis. Finally, vessel operators choosing this option are required to record test results through an electronic logbook and use video to monitor the flow of catch and ensure no scale tampering has occurred; these recording and monitoring requirements are similar to those imposed on the BSAI Pacific cod hook-and-line fishery (79 FR 68610, November 18, 2014). This option can be selected by obtaining a Scale Inspection Report as detailed in § 679.28(b)(2)(vii), and, if selected, the option remains in place for the 12-month duration approved in the Scale Inspection Report.

Additional Observer Option

This final rule adds language in paragraph (c) of § 679.101 and in § 679.51(a)(2)(vi) to authorize a vessel to choose to carry one or more additional observers. Any observer in addition to the required Level 2 observer is not required to have observer certification endorsements in addition to the observer certification training endorsement specified at § 679.53(a)(5)(i). Carrying an additional observer could reduce the likelihood of data loss. The addition of observers may reduce observer workload and could allow observers to support and advise each other about their collection duties, and, therefore, potentially could lead to fewer data collection errors and an increase in the number of samples conducted. This option is already available under existing monitoring provisions (§ 679.51) that allow a vessel to choose to contract with an observer provider to carry more than one observer. This final rule adds provisions that expressly authorize and apply to the practice of voluntarily adding observers to increase the number of total hauls that are randomly sampled. If a vessel operator chooses this option, one observer is required to meet the Level 2 endorsement requirement in this final rule.

Changes From Proposed to Final Rule

This final rule includes minor technical and organizational changes to account for the Pacific Cod Trawl Cooperative (PCTC) final rule (88 FR 53704, August 8, 2023). The PCTC final rule implemented Amendment 122 to the BSAI FMP. Amendment 122 established the Pacific Cod Trawl Cooperative Program, a limited access privilege program to harvest Pacific cod in the BSAI trawl catcher vessel sector. Among numerous other regulatory changes, the PCTC final rule modified 679.51(a)(2)(vi) by adding paragraph (G) and defined the ''NMFS Alaska Region website'' at § 679.2. The PCTC final rule was published after the proposed rule for this action. The paragraph that appeared as § 679.51(a)(2)(vi)(G) in the proposed rule is included in this final rule as § 679.51(a)(2)(vi)(H). Technical changes have been made to the rule in §§ 679.51 and 679.100 to remove the URL for ''NMFS Alaska Region website.'' Technical changes were also made to 679.101(c)(3)(i)(A) through (C) to clearly show that all three of the paragraphs are part of an additive list of requirements.

Comments and Responses

NMFS received one comment letter in support of the action during the comment period. The comment letter was from a fishing company that operates a vessel impacted by this action and the letter contained one substantive comment that is summarized and responded to below.

Comment 1: This action is needed to address known catch accounting issues in the fishery; we strongly support these changes.

Response 1: NMFS acknowledges the comment.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator (AA) has determined that this final rule is consistent with Amendment 122 to the BSAI FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

A Regulatory Impact Review (RIR or Analysis) was prepared to assess the costs and benefits of available regulatory alternatives. A copy of this Analysis is available from NMFS (see **ADDRESSES**). NMFS implements this final rule based on those measures that maximize net benefits to the Nation.

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

Collection-of-Information Requirements

This final rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) Under the Paperwork Reduction Act (PRA). This final rule revises existing collection-of-information requirements for OMB Control Number 0648–0318 (North Pacific Observer Program), and revises and extends for 3 years existing collection-of-information requirements for OMB Control Numbers 0648–0330 (NMFS Alaska Region Scale and Catch Weighing Requirements) and 0648–0515 (Alaska Interagency Electronic Reporting System). However, because the collection of information authorized by 0648–0318 is concurrently being revised by a separate action, the revision to that collection of information for this final rule will be assigned a temporary control number, 0648–0815, that will later be merged into 0648–0318. The public reporting burden estimates for the collection-of-information requirements provided below include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OMB Control Number 0648–0815

This final rule revises the collection of information under OMB Control Number 0648–0318, associated with the North Pacific Observer Program. Due to a concurrent action for this collection, the collection-of-information requirements will be assigned a temporary control number, 0648–0815, that will later be merged into OMB Control Number 0648–0318. This final rule requires that the North Pacific Observer Program be notified by phone at least 24 hours prior to departure when a vessel will carry an observer who has not deployed on that vessel in the past 12 months. The public reporting burden per notification to the North Pacific Observer Program by phone is estimated to be 5 minutes.

OMB Control Number 0648–0330

NMFS revises and extends by 3 years the existing requirements for OMB Control Number 0648–0330. This collection contains catch weighing and monitoring requirements for catch share programs in the BSAI and Gulf of Alaska. This collection is revised to include two of the voluntary monitoring options for BSAI pot CPs: the option to provide a certified observer sampling station with a NMFS-approved MCP scale for observer use; and the option to install a motion-compensated, NMFS-approved scale to measure the total catch of Pacific cod, in conjunction with an MCP scale for testing and video monitoring. This final rule requires testing and inspections of the observer

sampling station and NMFS-approved scales. This final rule does not change the public reporting burdens for the collection-of-information requirements under this control number. The public reporting burden per individual response is estimated to average 10 minutes for the inspection request form for observer sampling stations, at-sea scales, and video monitoring systems; 1 minute for maintenance of observer sampling stations; 1 minute each for maintenance for hopper and flow scales; 2 minutes for observer notification of daily scale tests; 10 minutes each for the recording of daily flow scale tests and recording of daily hopper scale tests; 1 minute each for printed reports of catch and cumulative weight, the audit trail, the calibration log, and the fault log; 12 hours for installation of the video monitoring system; 1 minute for maintenance of the video monitoring system; 2 hours to submit the video monitoring data; 10 minutes for notification of the Pacific cod monitoring option; 40 hours for the catch monitoring and control plan; and 16 hours for the crab monitoring plan.

OMB Control Number 0648–0515

NMFS revises and extends by 3 years the existing requirements for OMB Control Number 0648–0515. This collection contains the landing reports, production reports, and logbooks submitted through the Alaska Interagency Electronic Reporting System, which provides the Alaska fishing industry with a consolidated, electronic means of reporting commercial fish and shellfish information to multiple management agencies through a single reporting system. This collection is being revised because one of the voluntary monitoring options requires use of an electronic logbook. This final rule does not change the public reporting burdens for the collection-of-information requirements under this control number. The public reporting burden per individual response is estimated to average 15 minutes for the electronic logbooks, 15 minutes to register for eLandings, 10 minutes for the shoreside processor production report, 20 minutes for the at-sea production report, 10 minutes for the mothership landing report, 20 minutes for the out-of-state landing report, 30 minutes each for the shoreside processors landing report and the CP landing report, 35 minutes for the tender landing report, and 1 hour each for the registered buyer landing report for individual fishing quota (IFQ)/community development quota (CDQ) and the registered crab receiver landing report for IFQ/CDQ.

Public Comment on Collection-of-Information Requirements

We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Written comments and recommendations for this information collection should be submitted at the following website: *https://www.reginfo.gov/public/do/PRAMain.* Find the particular information collection by selecting ''Currently under Review'' or by using the search function and entering the title of the collection.

Notwithstanding any other provision of law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Date: October 31, 2023.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

§§ 679.2, 679.7, 679.28, 679.32, 679.51, 679.63, 679.84, 679.93 [Amended]

■ 2. In 50 CFR part 679, remove the reference ''§ 679.120'' and add, in its place, the reference ''§ 679.102'' in the following places:

(a) § 679.2;

(b) § 679.7(e)(1), (2), (3), and (10), and (m)(4)(iv);

(c) § 679.28(d)(9), (d)(10)(iii)(A), and (l);

(d) § 679.32(c)(3)(i)(C)(*4*);

(e) § 679.51(a)(2)(vi)(F);

(f) § 679.63(a)(1);

(g) § 679.84(c)(1); and

(h) § 679.93(c)(1).

■ 3. In § 679.51, add paragraph (a)(2)(vi)(H) to read as follows:

§ 679.51 Observer and Electronic Monitoring System requirements for vessels and plants.

(a) * * *

(2) * * *

(vi) * * *

(H) *Catcher/processors using pot gear for groundfish fishing.* A catcher/processor subject to § 679.101(a) must comply with the following observer coverage requirements:

(1) Observer coverage. A catcher/processor must have aboard at least one Level 2 observer, as defined in § 679.53(a)(5)(iv).

(2) Increased observer coverage option. A catcher/processor may carry more than one observer. A vessel choosing this option must have aboard at least one Level 2 observer as described in paragraph (a)(2)(vi)(H)(*1*) of this section.

* * * * *

§ 679.53 [Amended]

■ 4. In § 679.53, amend paragraph (a)(5)(iv) introductory text by removing the phrase ''§ 679.51(a)(2)(vi)(A) through (E)'' and add, in its place, ''§ 679.51(a)(2)(vi)(A) through (H).''

■ 5. Revise the heading of subpart I to read as follows:

Subpart I—Additional Equipment and Operational Requirements for Motherships and Catcher/Processors

■ 6. Amend § 679.100 by revising the section heading of § 679.100, the introductory text, paragraph (a), and paragraph (b) introductory text to read as follows:

§ 679.100 Longline Catcher/Processor Subsector.

The owner and operator of a vessel named on an LLP license with a Pacific cod catcher/processor hook-and-line endorsement for the Bering Sea, Aleutian Islands or both the Bering Sea and Aleutian Islands subareas (BSAI) must comply with the requirements of this section.

(a) *Opt out selection.* Each year, the owner of a vessel subject to this section who does not intend to directed fish for Pacific cod in the BSAI or conduct groundfish CDQ fishing at any time during a year may, by November 1st of the year prior to fishing, submit to NMFS a completed notification form to opt out of directed fishing for Pacific cod in the BSAI and groundfish CDQ fishing in the upcoming year. The notification form is available on the NMFS Alaska Region website. Once the vessel owner has selected to opt out, the owner must ensure that the vessel is not used as a catcher/processor to conduct

directed fishing for Pacific cod with hook-and-line gear in the BSAI or to conduct groundfish CDQ fishing during the specified year.

(b) *Monitoring option selection.* The owner of a vessel subject to this section that does not opt out under paragraph (a) of this section must submit a completed notification form for one of two monitoring options to NMFS. The notification form is available on the NMFS Alaska Region website. The vessel owner must comply with the selected monitoring option at all times when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing. If NMFS does not receive a notification to opt out or a notification for one of the two monitoring options, NMFS will assign that vessel to the increased observer coverage option under paragraph (b)(1) of this section until the notification form has been received by NMFS.

* * * * *

■ 7. In subpart I, add § 679.101 to read as follows:

§ 679.101 Catcher/processors using pot gear for groundfish fishing.

(a) *Applicability.* The owner and operator of a vessel named on an LLP license with a Pacific cod catcher/processor pot gear endorsement for the Bering Sea, Aleutian Islands or both the Bering Sea and Aleutian Islands subareas (BSAI) must comply with the requirements of this section when using pot gear for groundfish fishing as a catcher/processor in the Bering Sea or Aleutian Islands.

(b) *Pre-cruise meeting.* The Observer Program must be notified by phone at 1 (907) 581–2060 (Dutch Harbor, AK) or 1 (907) 481–1770 (Kodiak, AK) at least 24 hours prior to departure when the vessel will be carrying an observer who has not previously been deployed on that vessel within the last 12 months. Subsequent to the vessel's departure notification, but prior to departure, NMFS may contact the vessel to arrange for a pre-cruise meeting. If requested by NMFS, the pre-cruise meeting must minimally include the vessel operator or manager and any observers assigned to the vessel.

(c) *Additional monitoring options.* The owner or operator of a vessel subject to this section may choose any, all, or none of the following monitoring options described in paragraphs (c)(1) through (c)(3) of this section. Should an owner or operator choose any of these monitoring options, the owner and operator must comply with the applicable requirements described in paragraphs (c)(1) through (c)(3) of this section.

(1) *Observer sampling station option.* Under this option, an observer sampling station meeting the requirements at § 679.28(d), unless otherwise approved by NMFS, must be provided for observer use. This option is selected by obtaining an Observer Sampling Station Inspection Report as detailed in § 679.28(d)(10)(iii) and will remain in place for the 12-month duration approved in the Observer Sampling Station Inspection Report.

(2) *Increased observer coverage option.* Under this option, if two observers are aboard the vessel meeting the requirements at § 679.51(a)(2)(vi)(H)(*2*), at least one of the observers must be endorsed as a Level 2 observer in accordance with § 679.53(a)(5)(iv).

(3) *NMFS-approved total catch weighing scales option.* Under this option, a vessel owner and operator may install a NMFS-approved scale for weighing total catch of Pacific cod. This option is selected by obtaining a Scale Inspection Report as detailed in § 679.28(b)(2)(vii) and will remain in place for the 12-month duration approved in the Scale Inspection Report. Under this option—

(i) A vessel owner and operator with an approved Scale Inspection Report must ensure that—

(A) All Pacific cod brought on board the vessel is weighed on a NMFS-approved scale in compliance with the scale requirements at § 679.28(b), and that each set is weighed and recorded separately;

(B) The vessel is in compliance with the video monitoring requirements described at § 679.28(k); and

(C) The vessel is in compliance with the requirements for electronic logbooks at § 679.5(f) at all times during that year.

(ii) [Reserved]

§ 679.120 [Redesignated as § 679.102]

■ 8. Redesignate § 679.120 of subpart K as § 679.102 of subpart I.

Subpart K [Reserved]

■ 9. Reserve subpart K.

[FR Doc. 2023–24377 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 88, No. 216
Thursday, November 9, 2023

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

[Doc. No. AMS–SC–23–0034]

Hazelnuts Grown in Oregon and Washington; Decreased Assessment Rate

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Hazelnut Marketing Board (Board) to decrease the assessment rate established for the 2023–2024 marketing year and subsequent marketing years. The proposed assessment rate would remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Comments must be received by December 11, 2023 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments can be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237. Comments can also be submitted to the Docket Clerk electronically by Email: *MarketingOrderComment@usda.gov* or via the internet at: *https://www.regulations.gov*. Comments should reference the document number and the date and page number of this issue of the **Federal Register**. Comments submitted in response to this proposed rule will be included in the record and will be made available to the public and can be viewed at: *https://www.regulations.gov.* Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Virginia Tjemsland, Marketing Specialist, or Gary Olson, Chief, West Region Branch, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326–2724, or Email: *Virginia.L.Tjemsland@usda.gov* or *GaryD.Olson@usda.gov*.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–8085, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes to amend regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Agreement No. 115 and Order No. 982, both as amended (7 CFR part 982), regulating the handling of hazelnuts grown in Oregon and Washington. Part 982 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Board locally administers the Order and comprises growers and handlers of hazelnuts operating within the area of production, and a public member.

The Agricultural Marketing Service (AMS) is issuing this proposed rule in conformance with Executive Orders 12866, 13563, and 14094. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 supplements and reaffirms Executive Orders 12866 and 13563 and directs agencies to conduct proactive outreach to engage interested and affected parties through a variety of means, such as through field offices, and alternative platforms and media. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review.

This proposed rule has been reviewed under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider whether their rulemaking actions would have Tribal implications. AMS has determined that this proposed rule is unlikely to have substantial direct effects 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.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the Order now in effect, hazelnut handlers are subject to assessments. Funds to administer the Order are derived from such assessments. It is intended that the assessment rate would be applicable to all assessable hazelnuts for the 2023–2024 marketing year, and continue until amended, suspended, or terminated.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and requesting a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing, USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

Section 982.61 provides authority for the Board, with the approval of AMS, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. Members are familiar with the Board's needs and with the costs of goods and services in their local area and are, thus, in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and

discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2017–2018 marketing year and subsequent marketing years, the Board recommended, and AMS approved, an assessment rate of $12 per ton (equivalent to $0.006 per pound) of hazelnuts. That rate continues in effect from marketing year to marketing year until modified, suspended, or terminated by AMS upon recommendation and information submitted by the Board or other information available to AMS. This proposed rule would decrease the assessment rate from $0.006 per pound to $0.005 per pound for the 2023–2024 marketing year and subsequent marketing years.

The Board met on June 29, 2023, and recommended 2023–2024 marketing year expenditures of $1,815,000 and an assessment rate of $10 per ton (the equivalent of $0.005 per pound) of hazelnuts handled for the 2023–2024 marketing year and subsequent marketing years. In comparison, last year's budgeted expenditures were $2,378,550. The proposed assessment rate of $0.005 per pound is $0.001 lower than the rate currently in effect. The Board recommended decreasing the assessment rate to better align assessment revenue with budgeted expenses and to reduce the financial burden on the industry in a period of low commodity prices. The Board projects handler receipts of 85,000 tons (170 million pounds) of hazelnuts for the 2023–2024 marketing year, which is 10,000 tons (20 million pounds) more than was projected for the 2022–2023 marketing year.

The expenditures totaling $1,815,000 recommended by the Board for the 2023–2024 marketing year include $670,000 for promotional activities, $300,000 for contingency/undesignated, $100,000 for marketing research, $100,000 for research endowment, $378,000 for administrative activities, and $267,000 for miscellaneous expenses. By comparison, budgeted expenditures for the 2022–2023 marketing year for promotional activities, contingency, marketing research, research endowment, administrative activities and miscellaneous expenses were $1,251,200, $200,000, $150,000, $100,000, $347,350, and $330,000, respectively. The Board's 2023–2024 marketing year budget was reduced to account for generally lower commodity prices and decreased industry revenue.

The expected 170 million pounds of assessable hazelnuts from the 2023 crop would generate $850,000 in assessment revenue at the proposed assessment rate (170 million pounds multiplied by $0.005 assessment rate). The remaining $965,000 needed to cover budgeted expenditures would come from new grant funds and reserve funds carried over from previous marketing years. The Board anticipates $495,000 in federal grants administered by USDA's Foreign Agricultural Service.[1] The remaining $470,000 necessary to cover budgeted expenditures would come from its monetary reserve. The recommended assessment rate should be appropriate to ensure that the Board has sufficient revenue, along with grants awarded and reserve funds, to fully fund its recommended 2023–2024 marketing year budgeted expenditures and still maintain a level of reserve funds that the Board believes is appropriate.

The Board derived the recommended assessment rate by considering anticipated expenses, an estimated 2023 crop volume of 170 million pounds of assessable hazelnuts, grants that have been awarded, and the amount of funds available in the authorized reserve. Income derived from handler assessments ($850,000), and funds from other sources ($965,000), is expected to be adequate to cover budgeted expenses ($1,815,000).

The proposed assessment rate would continue in effect indefinitely unless modified, suspended, or terminated by AMS upon recommendation and information submitted by the Board or other available information.

Although this assessment rate would be in effect for an indefinite period, the Board would continue to meet prior to or during each marketing year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Board meetings are available from the Board or AMS. Board meetings are open to the public and interested persons may express their views at these meetings. AMS would evaluate Board recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking would be undertaken as necessary. The Board's 2023–2024 marketing year budget and those for subsequent marketing years will be reviewed and, as appropriate, approved by AMS.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), AMS has considered the economic impact of this proposed rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of typically small entities acting on their own behalf.

There are approximately 1,103 producers of hazelnuts in the production area and 14 handlers subject to regulation under the Order. At the time this analysis was prepared, small agricultural producers of hazelnuts were defined by the Small Business Administration (SBA) as those having annual receipts equal to or less than $3,750,000 (North American Industry Classification System code 111335), and small agricultural service firms were defined as those whose annual receipts are equal to or less than $34,000,000 (North American Industry Classification System code 115114) (13 CFR 121.201).

According to the National Agricultural Statistics Service (NASS), the average producer price received for hazelnuts sold in Oregon specifically in 2022 was $1,300 per ton. Total production of hazelnuts for the 2022 season was reported by the NASS to be 68,000 tons. Using the average price and production data from the 2022 crop year, the most recent year for which there is NASS data available, the total 2022 crop value of hazelnuts could be estimated to be $88,400,000 (68,000 tons times $1,300 per ton). Dividing the crop value by the estimated number of producers (1,103) yields estimated average receipts per hazelnut producer of $80,145, which is well below the SBA threshold for small producers.

In addition, according to AMS Market News data, the reported average 2021–2022 marketing year shipping point price for hazelnuts was $126.82 per 50-pound container, or $2.54 per pound ($126.82 per 50-pound container divided by 50 pounds). Multiplying the 2022 hazelnut production of 136,000,000 pounds (68,000 tons) by the estimated average price per pound of $2.54 equals $345,440,000 of estimated handler receipts. Dividing this figure by the 14 regulated handlers yields estimated average annual handler receipts of approximately $24,674,286 ($345,440,000 divided by 14 handlers), which is below the SBA threshold for small agricultural service firms. Therefore, using the above data, most of

[1] Specifically, $110,000 in Agricultural Trade Promotion program funds, $300,000 in Market Access Program funds, and $85,000 in Technical Assistance for Specialty Crop program funds.

the producers and handlers of hazelnuts may be classified as small entities.

This proposal would decrease the assessment rate collected from handlers for the 2023–2024 marketing year and subsequent marketing years from $0.006 to $0.005 per pound of assessable hazelnuts. The Board unanimously recommended 2023–2024 marketing year expenditures of $1,815,000 and an assessment rate of $10 per ton ($0.005 per pound) of assessable hazelnuts. The proposed assessment rate of $0.005 per pound is $.001 lower than the current rate. The Board expects the industry to handle 85,000 tons (170 million pounds) of assessable hazelnuts during the 2023–2024 marketing year. Thus, at the $0.005 per pound rate, the Board anticipates $850,000 in assessment income (170 million pounds multiplied by $0.005 per pound). The Board also expects to use grant funds and the Board's monetary reserve to cover the remaining $965,000 of expenses. Income derived from handler assessments, along with grants and reserve funds, should be adequate to meet budgeted expenditures for the 2023–2024 marketing year.

The major expenditures recommended by the Board for the 2023–2024 marketing year include $670,000 for promotional activities, $300,000 for contingency/undesignated, $100,000 for marketing research, $100,000 for research endowment, $378,000 for administrative activities, and $267,000 for miscellaneous expenses. Budgeted expenditures for the 2022–2023 marketing year were $1,251,200 for promotional activities, $200,000 for contingency/undesignated, $150,000 for marketing research, $100,000 for research endowment, $347,350 for administrative activities, and $330,000 for miscellaneous, respectively.

The Board's 2023–2024 marketing year budget was reduced $563,550 from the prior year's budget to account for generally lower commodity prices and decreased industry revenue. In addition, the Board recommended decreasing the assessment rate to reduce the financial burden on the handlers and growers during the current environment of depressed prices. In recent years, the Board has utilized reserve funds to partially fund its budgeted expenditures. The Board's 2023–2024 marketing year budget again utilizes funds from the financial reserve to subsidize expenditures, but at a lower amount than in previous years. With this action, the Board's reserve balance would be maintained at a level that the Board believes is appropriate and is compliant with the provisions of the Order.

Prior to arriving at the budget and proposed assessment rate, the Board discussed various alternatives, including maintaining the current assessment rate of $0.006 per pound and reducing the assessment rate to $0.0055 per pound ($11 per ton). However, the Board determined that the recommended assessment rate would be able to reduce the financial burden on the industry and still fund most of the Board's budgeted expenses without drawing down reserves at an unsustainable rate. The assessment rate of $0.005 per pound of hazelnuts was derived by considering anticipated expenses, the projected volume of assessable hazelnuts, the projected monetary balance held in reserve, and additional pertinent factors.

A review of NASS information indicates that the average producer price for the 2022 crop year was $0.65 per pound ($1,300 per ton). Further, NASS reported the quantity of hazelnuts harvested in the 2022 crop year was 136 million pounds (68,000 tons), which yields estimated total producer revenue for 2022 of $88,400,000 ($0.65 per pound multiplied by 136 million pounds). Therefore, utilizing the assessment rate of $0.005 per pound, the estimated assessment revenue as a percentage of total producer revenue would be approximately 0.77 percent ($0.005 per pound multiplied by 136 million pounds divided by $88,400,000 and multiplied by 100).

This proposed action would decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to growers. However, these costs are expected to be offset by the benefits derived by the operation of the Order.

The Board's meetings are widely publicized throughout the production area. The hazelnut industry and all interested persons are invited to attend the meetings and participate in Board deliberations on all issues. Like all Board meetings, the June 29, 2023, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and information collection impacts of this action on small businesses.

In accordance with the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0178, Vegetable and Specialty Crops. No changes in those requirements would be necessary as a result of this proposed rule. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large hazelnut handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

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

AMS has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *https://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendations submitted by the Committee and other available information, USDA has determined that this proposed rule is consistent with and will effectuate the purposes of the Act.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule. All written comments timely received will be considered before a final determination is made on this rule.

List of Subjects in 7 CFR Part 982

Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 982 as follows:

PART 982—HAZELNUTS GROWN IN OREGON AND WASHINGTON

■ 1. The authority citation for 7 CFR part 982 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Revise 982.340 to read as follows:

§ 982.340 Assessment rate.

On and after July 1, 2023, an assessment rate of $0.005 per pound is

established for Oregon and Washington hazelnuts.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2023–24793 Filed 11–8–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–2147; Project Identifier MCAI–2023–00663–E]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Canada Corp. Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Pratt & Whitney Canada Corp. (P&WC) Model PW307A and PW307D engines. This proposed AD was prompted by a root cause analysis of an event involving an uncontained failure of a high-pressure turbine (HPT) 1st-stage disk that resulted in high-energy debris penetrating the engine cowling and an aborted takeoff. This proposed AD would require removing from service and replacing certain HPT disks and would also prohibit installing certain HPT disks on any engine, as specified in a Transport Canada AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by December 26, 2023.

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

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

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2023–2147; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For service information identified in this proposed AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario, K1A 0N5, Canada; phone: (888) 663–3639; email: *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website: *tc.canada.ca/en/aviation.* It is also available at *regulations.gov* under Docket No. FAA–2023–2147.
- You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (781) 238–7146; email: *barbara.caufield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–2147; Project Identifier MCAI–2023–00663–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Barbara Caufield, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2023–30, dated May 8, 2023 (Transport Canada AD CF–2023–30) (also referred to as the MCAI), to correct an unsafe condition on P&WC Model PW307A and PW307D engines with certain serial numbered HPT disks installed. The MCAI states that on March 18, 2020, an Airbus Model A321–231 airplane, powered by an International Aero Engines AG (IAE) Model V2533–A5 engines, experienced an uncontained HPT 1st-stage disk failure that resulted in an aborted takeoff and high-energy debris penetrating the engine cowling.

In response to the March 2020 uncontained HPT 1st-stage disk failure, the FAA issued a series of ADs, including Emergency AD 2020–07–51, Amendment 39–21110 (85 FR 20402, April 13, 2020) (AD 2020–07–51). Since the FAA issued AD 2020–07–51, IAE determined that the failure of the V2533–A5 engine was due to an undetected subsurface material defect in the HPT 1st-stage disk that may affect the life of the part. In coordination with IAE, P&WC performed a records review and analysis of PW307A and PW307D engine parts made of similar material and identified additional affected HPT 1st and 2nd-stage disks, installed on PW307A and PW307D engines. These additional HPT disks may have a material defect that could reduce the life of the part and must be removed from service.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2023–2147.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Transport Canada AD CF–2023–30, which identifies the affected HPT disks and specifies procedures for replacement. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

FAA's Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has since coordinated with other manufacturers and CAAs to use this process. As a result, the FAA proposes to incorporate by reference Transport Canada AD CF–2023–30 in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF–2023–30 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in the Transport Canada AD does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''Compliance,'' compliance with this AD requirement is not limited to the section titled ''Corrective Actions'' in Transport Canada AD CF–2023–30. Service information required by the Transport Canada AD for compliance will be available at *regulations.gov* under Docket No. FAA–2023–2147 after the FAA final rule is published.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the MCAI, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 63 engines, installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Remove affected HPT 1st or 2nd stage disk.	8 work-hours × $85 per hour = $680	$136,400	$137,080	$8,636,040

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Pratt & Whitney Canada Corp.: Docket No. FAA–2023–2147; Project Identifier MCAI–2023–00663–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by December 26, 2023.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Pratt & Whitney Canada Corp. Model PW307A and PW307D engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a root cause analysis of an event involving an International Aero Engines AG Model

V2533–A5 engine, which experienced an uncontained failure of a high pressure turbine (HPT) 1st-stage disk that resulted in high-energy debris penetrating the engine cowling. The FAA is issuing this AD to prevent failure of the HPT 1st and 2nd-stage disks. The unsafe condition, if not addressed, could result in uncontained HPT disk failure, damage to the engine, damage to the airplane, and loss of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified in paragraphs (h) and (i) of this AD: Perform all required actions within the compliance times specified in, and in accordance with, Transport Canada AD CF–2023–30, dated May 8, 2023 (Transport Canada AD CF–2023–30).

(h) Exceptions to Transport Canada AD CF–2023–30

(1) Where Transport Canada AD CF–2023–30 requires compliance from its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph A. of Transport Canada AD CF–2023–30 specifies ''Before 31 January 2027,'' replace that text with ''Within 36 months after the effective date of this AD.''

(3) Where paragraph B. of Transport Canada AD CF–2023–30 specifies ''At the next opportunity, when the affected engine is disassembled and access is available to the HPT disk, remove any affected HPT disk listed in Table 2 or Table 4 below and replace the affected HPT disk with a serviceable part,'' replace that text with ''For any engine with an installed HPT disk listed in Table 2 or Table 4 [of Transport Canada AD CF–2023–30], at the next piece-part exposure, remove the affected HPT disk from service and replace with a serviceable part.''

(i) No Reporting Requirement

Although the service information referenced in Transport Canada AD CF–2023–30 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Definitions

(1) For the purpose of this AD, ''piece-part exposure'' is when the affected part is removed from the engine and completely disassembled.

(2) For the purpose of this AD, a ''serviceable part'' is any HPT disk that is not identified in Tables 1 through 4 of Transport Canada AD CF–2023–30.

(k) Alternative Methods of Compliance (AMOCs)

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

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

(l) Additional Information

For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (781) 238–7146; email: *barbara.caufield@faa.gov*.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Transport Canada AD CF–2023–30, dated May 8, 2023.

(ii) [Reserved]

(3) For Transport Canada AD CF–2023–30, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; phone: (888) 663–3639; email: *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca;* website *tc.canada.ca/en/aviation*.

(4) You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov*.

Issued on October 30, 2023.

Victor Wicklund,

Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–24562 Filed 11–8–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1673; Airspace Docket No. 22–AGL–38]

RIN 2120–AA66

Proposed Establishment of Class E Airspace; Paoli, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws the notice of proposed rulemaking (NPRM) published in the **Federal Register** on December 22, 2022, proposing to establish Class E airspace at Paoli, IN. The FAA has determined that withdrawal of the NPRM is warranted as the airport has withdrawn its request to develop public instrument flight procedures necessitating the establishment of Class E airspace.

DATES: Effective as of 0901 UTC, November 9, 2023, the proposed rule published December 22, 2022 (87 FR 78616), is withdrawn.

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

SUPPLEMENTARY INFORMATION:

Reason for Withdrawal

The FAA published a NPRM on December 22, 2022 (87 FR 78616), Docket No. FAA–2022–1673, to amend 14 CFR 71 by establishing Class E airspace extending upward from 700 feet above the surface at Paoli Municipal Airport, Paoli, IN, to support instrument flight rule operations at this airport. Subsequent to publication, the FAA was notified that the airport has withdrawn its request to develop public instrument flight procedures at this airport which necessitated the Class E airspace.

Conclusion

The FAA determined that the NPRM published on December 22, 2022 (87 FR 78616), is unnecessary. Therefore, the FAA withdraws that NPRM.

Issued in Fort Worth, Texas, on November 6, 2023.

Martin A. Skinner,

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

[FR Doc. 2023–24843 Filed 11–8–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–2194; Airspace Docket No. 23–ASO–19]

RIN 2120–AA66

Amendment of VOR Federal Airways V–5, V–47, V–97, V–128, V–275, and V–517, and United States Area Navigation (RNAV) Route T–315, and Revocation of VOR Federal Airway V–19 in the Vicinity of Cincinnati, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Very High Frequency Omnidirectional Range (VOR) Federal airways V–5, V–47, V–97, V–128, V–275, and V–517, and United States Area Navigation (RNAV) route T–315, and revoke VOR Federal airway V–19. The FAA is proposing this action due to the planned decommissioning of the VOR portion of the Cincinnati, KY (CVG), VOR/Tactical Air Navigation (VORTAC) navigational aid (NAVAID). The Cincinnati VOR is being decommissioned in support of the FAA's VOR Minimum Operational Network (MON) program.

DATES: Comments must be received on or before December 26, 2023

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–2194 and Airspace Docket No. 23–ASO–19 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Docket: Background documents or comments received may be read at *www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of the comments it receives.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Availability of Rulemaking Documents

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Operations Support Group, Central Service Center, Federal Aviation Administration, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Incorporation by Reference

VOR Federal airways are published in paragraph 6010(a) and United States Area Navigation Routes (T-routes) are published in paragraph 6011 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023. These updates would be published in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

FAA Order JO 7400.11H lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

Background

The FAA is planning to decommission the Cincinnati, KY, VOR in May 2024. The Cincinnati VOR was one of the candidate VORs identified for discontinuance by the FAA's VOR MON program and listed in the final policy statement notice, ''Provision of Navigation Services for the Next Generation Air Transportation System (NextGen) Transition to Performance-Based Navigation (PBN) (Plan for Establishing a VOR Minimum Operational Network),'' published in the **Federal Register** on July 26, 2016 (81 FR 48694), Docket No. FAA–2011–1082.

Although the VOR portion of the Cincinnati, KY, VORTAC is planned for decommissioning, the co-located Tactical Air Navigation (TACAN) portion of the NAVAID is being retained to provide navigational service for

military operations and Distance Measuring Equipment (DME) service in support of current and future NextGen PBN flight procedure requirements.

The VOR Federal airways affected by the Cincinnati VOR decommissioning are V–5, V–19, V–47, V–97, V–128, V–275, and V–517. With the planned decommissioning of the Cincinnati VOR, the remaining ground-based NAVAID coverage in the area is insufficient to enable the continuity of the affected airways. As such, proposed modifications to V–5, V–47, V–128, V–275, and V–517 would result in the airways being shortened; to V–97 would result in an existing gap in the airway being expanded; and to V–19 would result in the airway being revoked.

To address the proposed modifications to the affected VOR Federal airways, instrument flight rules (IFR) pilots operating aircraft equipped with RNAV capabilities could use RNAV routes T–213, T–215, and T–217 or navigate point-to-point using the existing fixes and waypoints (WP) that will remain in place to support continued operations though the affected area. IFR pilots operating aircraft not equipped with RNAV capabilities may request air traffic control (ATC) radar vectors to fly through or around the affected area. Additionally, visual flight rules pilots who elect to navigate via the affected Air Traffic Service (ATS) routes may also take advantage of the ATC services listed previously.

Additionally, the FAA proposes to modify United States RNAV route T–315 to further mitigate the proposed modifications to the affected airways. The route would be extended westward to mitigate the proposed removal of the affected V–128 airway segment. The extended T–315 would provide pilots with RNAV-equipped aircraft a route alternative through the affected area, reduce ATC sector workload and complexity, reduce pilot-to-controller communications, and support the FAA's continued NextGen efforts to modernize the NAS from a ground-based system to a satellite-based system.

The Proposal

The FAA is proposing to amend 14 CFR part 71 to amend VOR Federal airways V–5, V–47, V–97, V–128, V–275, and V–517, and United States RNAV route T–315, and to revoke VOR Federal airway V–19 due to the planned decommissioning of the VOR portion of the Cincinnati, KY, VORTAC. The proposed ATS route actions are described below.

V–5: V–5 currently extends between the Pecan, GA, VOR/DME and the Athens, GA, VOR/DME and between the New Hope, KY, VOR/DME and the Appleton, OH, VORTAC. The FAA proposes to remove the airway segment between the Louisville, KY, VORTAC and the Appleton VORTAC due to the planned decommissioning of the VOR portion of the Cincinnati VORTAC. Additionally, the FAA proposes to also remove the airway segment between the New Hope, KY, VOR/DME and the Louisville, KY, VORTAC due to that airway segment overlapping V–513 which will remain charted and provide navigational guidance between the two NAVAIDs. As amended, the airway would be changed to extend between the Pecan VOR/DME and the Athens VOR/DME.

V–19: V–19 currently extends between the Cincinnati, KY (reflected as OH in the current description), VOR/DME and the Appleton, OH, VORTAC. The FAA proposes to revoke the airway in its entirety.

V–47: V–47 currently extends between the Cunningham, KY, VOR/DME and the Pocket City, IN, VORTAC and between the Cincinnati, KY, VORTAC and the Flag City, OH, VORTAC. The FAA proposes to remove the airway segment between the Cincinnati VORTAC and the Rosewood, OH, VORTAC due to the planned decommissioning of the VOR portion of the Cincinnati VORTAC. Additionally, the FAA proposes to also remove the airway segment between the Cunningham VOR/DME and the Pocket City VORTAC due to that airway segment overlapping both V–11 and V–305 that will remain charted and provide navigational guidance between the two NAVAIDs. As amended, the airway would be changed to extend between the Rosewood VORTAC and the Flag City VORTAC.

V–97: V–97 currently extends between the Dolphin, FL, VORTAC and the intersection of the Pecan, GA, VOR/DME 357° and Vienna, GA, VORTAC 300° radials (PRATZ Fix); between the intersection of the Rome, GA, VORTAC 060° and Volunteer, TN, VORTAC 197° radials (NELLO Fix) and the intersection of the Chicago Heights, IL, VORTAC 358° and DuPage, IL, VOR/DME 101° radials (NILES Fix); and between the Nodine, MN, VORTAC and the Gopher, MN, VORTAC. The airspace below 2,000 feet mean sea level (MSL) outside the United States is excluded. The FAA proposes to remove the airway segment between the Lexington, KY, VOR/DME and the Shelbyville, IN, VOR/DME due to the planned decommissioning of the VOR portion of the Cincinnati VORTAC. Additionally, the FAA proposes to also remove the airway segment between the Shelbyville VOR/DME and the Chicago Heights VORTAC due to that airway segment overlapping V–51 that will remain charted and provide navigational guidance between the two NAVAIDs. Lastly, the FAA proposes to also remove the airway segment between the Chicago Heights VORTAC and the intersection of the Chicago Heights VORTAC 358° and DuPage VOR/DME 101° radials (NILES Fix) due to that airway segment overlapping V–7 that will remain charted and provide navigational guidance between the Chicago Heights VORTAC and the NILES Fix. As amended, the airway would be changed to extend between the Dolphin VORTAC and the Lexington VOR/DME and between the Nodine VORTAC and the Gopher VORTAC.

V–128: V–128 currently extends between the Brickyard, IN, VORTAC and the Casanova, VA, VORTAC. The FAA proposes to remove the airway segment between the Brickyard VORTAC and the York, KY, VORTAC. As amended, the airway would be changed to extend between the York VORTAC and the Casanova VORTAC. Additional airway changes have been proposed in a separate NPRM action.

V–275: V–275 currently extends between the Cincinnati, KY, VORTAC and the intersection of the Dayton, OH, VOR/DME 007° and Flag City, OH, VORTAC 313° radials (KLOEE Fix). The FAA proposes to remove the airway segment between the Cincinnati VORTAC and the Dayton VOR/DME. As amended, the airway would be changed to extend between the Dayton VOR/DME and the intersection of the Dayton VOR/DME 007° and Flag City VORTAC 313° radials (KLOEE Fix).

V–517: V–517 currently extends between the Snowbird, TN, VORTAC and the Cincinnati, KY, VORTAC. The FAA proposes to remove the airway segment between the Falmouth, KY, VOR/DME and the Cincinnati VORTAC. As amended, the airway would be changed to extend between the Snowbird VORTAC and the Falmouth VOR/DME.

T–315: T–315 currently extends between the JARLO, WV, WP and the Burlington, VT, VORTAC. The FAA proposes to extend the route westward from the JARLO WP to the Brickyard, IN, VORTAC. The route extension would include the ILILE, OH, Fix that would be converted to a WP prior to the planned decommissioning of the Cincinnati VOR. As amended, T–315 would be changed to extend between the Brickyard, IN, VORTAC and the Burlington, VT, VORTAC and provide mitigation for the proposed V–128 airway segment removal. Additional

route changes have been proposed in a separate NPRM action. The full T–315 route description is listed in the amendments to part 71 as set forth below.

The NAVAID radials listed in the VOR Federal airway descriptions in The Proposed Amendment section below are unchanged and stated in degrees True north.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023, is amended as follows:

Paragraph 6010(a) Domestic VOR Federal Airways.

* * * * *

V–5 [Amended]

From Pecan, GA; Vienna, GA; Dublin, GA; to Athens, GA.

* * * * *

V–19 [Removed]

* * * * *

V–47 [Amended]

From Rosewood, OH; to Flag City, OH.

* * * * *

V–97 [Amended]

From Dolphin, FL; La Belle, FL; St. Petersburg, FL; Seminole, FL; Pecan, GA; to INT Pecan 357° and Vienna, GA 300° radials. From INT Rome, GA, 060° and Volunteer, TN, 197° radials; Volunteer; London, KY; to Lexington, KY. From Nodine, MN; to Gopher, MN. The airspace below 2,000 feet MSL outside the United States is excluded.

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V–128 [Amended]

From York, KY; Charleston, WV; to Casanova, VA.

* * * * *

V–275 [Amended]

From Dayton, OH; to INT Dayton 007° and Flag City, OH, 313° radials.

* * * * *

V–517 [Amended]

From Snowbird, TN; INT Snowbird 329° and London, KY, 141° radials; London; INT London 004° and Falmouth, KY, 164° radials; to Falmouth.

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–315 Brickyard, IN (VHP) to Burlington, VT (BTV) [Amended]

Brickyard, IN (VHP)	VORTAC	(Lat. 39°48′53.02″ N, long. 086°22′03.00″ W)
DECEE, IN	FIX	(Lat. 39°18′41.36″ N, long. 085°45′56.84″ W)
JADRO, IN	FIX	(Lat. 39°06′24.58″ N, long. 085°01′30.97″ W)
JIMUR, KY	FIX	(Lat. 39°01′17.62″ N, long. 084°41′02.13″ W)
CALIF, KY	FIX	(Lat. 38°56′01.97″ N, long. 084°18′38.27″ W)
ILILE, OH	WP	(Lat. 38°33′14.45″ N, long. 082°36′07.02″ W)
JARLO, WV	WP	(Lat. 38°20′58.85″ N, long. 081°46′11.68″ W)
SHANE, WV	FIX	(Lat. 37°58′31.15″ N, long. 080°48′24.34″ W)
DBRAH, VA	WP	(Lat. 37°20′34.14″ N, long. 080°04′10.75″ W)
SPNKS, VA	WP	(Lat. 37°17′21.31″ N, long. 079°33′17.14″ W)
KONRD, VA	WP	(Lat. 37°20′39.83″ N, long. 079°01′33.27″ W)
CRUMB, VA	FIX	(Lat. 37°28′09.44″ N, long. 078°08′27.69″ W)
Flat Rock, VA (FAK)	VORTAC	(Lat. 37°31′42.63″ N, long. 077°49′41.59″ W)
WAVES, VA	WP	(Lat. 37°35′13.54″ N, long. 077°26′52.03″ W)
TAPPA, VA	FIX	(Lat. 37°58′12.66″ N, long. 076°50′40.62″ W)
COLIN, VA	FIX	(Lat. 38°05′59.23″ N, long. 076°39′50.85″ W)
SHLBK, VA	WP	(Lat. 38°20′16.21″ N, long. 076°26′10.51″ W)
PRNCZ, MD	WP	(Lat. 38°37′38.10″ N, long. 076°05′08.20″ W)
CHOPS, MD	WP	(Lat. 38°45′41.81″ N, long. 075°57′36.18″ W)
COSHA, DE	WP	(Lat. 38°57′57.57″ N, long. 075°30′51.59″ W)
Atlantic City, NJ (ACY)	VORTAC	(Lat. 39°27′21.15″ N, long. 074°34′34.73″ W)
PANZE, NJ	FIX	(Lat. 39°40′33.58″ N, long. 074°10′05.45″ W)
DIXIE, NJ	FIX	(Lat. 40°05′57.72″ N, long. 074°09′52.17″ W)
Kennedy, NY (JFK)	VOR/DME	(Lat. 40°37′58.40″ N, long. 073°46′17.00″ W)
KEEPM, NY	FIX	(Lat. 40°50′14.77″ N, long. 073°32′42.58″ W)
TRANZ, NY	FIX	(Lat. 40°51′31.95″ N, long. 073°22′30.80″ W)
PUGGS, NY	WP	(Lat. 40°56′27.65″ N, long. 073°13′47.73″ W)
EEGOR, CT	WP	(Lat. 41°09′38.94″ N, long. 073°07′27.66″ W)
Hartford, CT (HFD)	VOR/DME	(Lat. 41°38′27.98″ N, long. 072°32′50.70″ W)
DVANY, CT	FIX	(Lat. 41°51′44.56″ N, long. 072°18′11.25″ W)
Gardner, MA (GDM)	VOR/DME	(Lat. 42°32′45.32″ N, long. 072°03′29.48″ W)
KEYNN, NH	WP	(Lat. 42°47′39.99″ N, long. 072°17′30.35″ W)
EBERT, VT	WP	(Lat. 43°32′58.08″ N, long. 072°45′42.43″ W)
Burlington, VT (BTV)	VOR/DME	(Lat. 44°23′49.58″ N, long. 073°10′57.49″ W)

* * * * *

Issued in Washington, DC, on November 2, 2023.

Karen L. Chiodini,

Acting Manager, Rules and Regulations Group.

[FR Doc. 2023–24661 Filed 11–8–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0803]

RIN 1625–AA11

Security Zone; Coast Guard Sector Key West, Trumbo Point Annex, Key West Harbor, Key West, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a security zone for certain waters of the Key West Harbor surrounding the Coast Guard Sector Key West on Trumbo Point Annex. This action is necessary to safeguard Coast Guard assets in the interest of national security. This proposed rulemaking would prohibit persons and vessels from being in the security zone unless authorized by the Captain of the Port Key West 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 December 11, 2023.

ADDRESSES: You may submit comments identified by docket number USCG–2023–0803 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. This notice of proposed rulemaking with its plain-language, 100-word-or-less proposed rule summary will be available in this same docket.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Hailye Wilson, Waterways Management Division, U.S. Coast Guard; telephone 305–292–8768, email *Hailye.M.Wilson@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

The Coast Guard Sector Key West, FL and its assets are on property previously under the control of the Naval Air Station (NAS) Key West, FL. The current regulations restricting vessel traffic in and around NAS Key West are found in 33 CFR 334.610 and are only enforceable by the Commanding Officer of NAS Key West, and certain designated agencies. Currently, the Coast Guard requires the authority from the Commanding Officer, NAS Key West, before they can enforce a security zone in and around Coast Guard property and assets. This additional step can generate unnecessary delays, which creates security concerns for the Coast Guard and potential hazards to the public. The Captain of the Port Key West (COTP) has determined that permanent security zone is in the interest of national security, the safety of life, and the prevention of damage to property.

The purpose of this rulemaking is to ensure the security of vessels, waterfront facilities, and personnel located at the Coast Guard, Sector Key West. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70051 and 70124.

III. Discussion of Proposed Rule

The COTP is proposing to establish a permanent security zone surrounding the Coast Guard Sector Key West, located adjacent to Trumbo Point Annex, Naval Air Station Key West. The security zone would cover all navigable waters within 100 yards of the Coast Guard Sector Key West. No vessel, other than Government-owned vessels and specifically authorized private craft, or persons would be permitted to stop or land in the security zone. 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 section 3(f) of Executive Order 12866, as amended by Executive Order 14094 (Modernizing Regulatory Review). Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on the fact that the area covered by the permanent security zone created by this rulemaking is already a regulated restricted area as contained in 33 CFR 334.610. Unauthorized vessels and persons have not been allowed to stop and land within 100 yards of the Coast Guard base on Trumbo Point Annex through the regulation in § 334.610. This rulemaking allows the Coast Guard to enforce the restricted area through a security zone. Additionally, the security zone only extends 100 yards from the Coast Guard Sector Key West, located adjacent to Trumbo Point Annex, Naval Air Station Key West and does not impede any regular vessel traffic (*i.e.,* cruise ships, ferries, small passenger vessels, etc.). Vessels will be able to transit safely around 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.

For the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

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

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule. If the 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 a security zone that would prohibit vessels and persons from stopping or landing within 100 yards of the United Sates Coast Guard base on Trumbo Point Annex. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at *https://www.regulations.gov.* To do so, go to *https://www.regulations.gov,* type USCG–2023–0803 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. Also, if you click on the Dockets tab and then the proposed rule, you should see a ''Subscribe'' option for email alerts. The option will notify you when comments are posted, or a final rule is published.

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 § 165.764 to read as follows:

§ 165.764 Security Zone; Coast Guard Sector Key West, Trumbo Point Annex, Key West Harbor, Key West, FL.

(a) *Location.* The following area is a security zone: All waters within 100 yards of the Coast Guard Sector Key West, from surface to bottom, encompassed by a line that extends north 100 yards into the Fleming Key Channel from point 24°34′02″ N, 81°47′52.7″ W; thence westerly, maintaining 100 yards from the Coast Guard property; thence southerly, 100 yards from the end of the piers; thence

easterly to 24°33′48.8″ N, 081°47′54.8″ W, and along the shore line back to the beginning point. These coordinates are based on North American Datum 1983.

(b) *Definitions.* As used in this section, *vessel* means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, except U.S. Coast Guard or U.S. naval vessels.

(c) *Regulations.* (1) Under the general security zone regulations in subpart D of this part, no person or vessel may enter or remain in the security zone described in paragraph (a) of this section without the permission of the Captain of the Port, other than Government-owned vessels.

(2) While anchoring, loitering, or fishing activities are prohibited, vessels may transit the following portions of the security zone at safe speed:

(i) Fleming Key Cut, extending from the northwest corner of Pier D–3 of U.S. Coast Guard Key West, eastward beneath the Fleming Key bridge.

(ii) Key West Bight Channel, which extends easterly from the Main Ship Channel into Key West Bight, the northerly edge of which channel passes 25 feet south of the U.S. Coast Guard Sector Key West piers on the north side of the Bight.

Jason D. Ingram,

Captain, U.S. Coast Guard, Captain of the Port Sector Key West.

[FR Doc. 2023–24853 Filed 11–8–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 192

[Docket No. PHMSA–2023–0080]

Pipeline Safety: Mifflin Energy Corporation's Petition for Declaratory Order Concerning Part 192 Jurisdiction and Operator Responsibility Over Customer-Owned Piping

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Petition for a Declaratory Order.

SUMMARY: The Pipeline and Hazardous Materials Safety Administration is seeking comment on a Petition for a Declaratory Order (Petition).

DATES: Comments are due on or before December 11, 2023. Reply comments to comments received are due on or before December 26, 2023.

ADDRESSES: Comments should reference the docket number for the petition request and may be submitted by any of the following methods:

- *Web: https://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** document issued by any agency. Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building: Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building: Room W12–140, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. EST, Monday through Friday, except Federal holidays.
- *Instructions:* Identify [Docket No. PHMSA–2023–0080] at the beginning of your comments. If you submit your comments by mail, submit two copies. Internet users may submit comments at *https://www.regulations.gov.* If you would like confirmation that PHMSA received your comments, please include a self-addressed stamped postcard labeled ''Comments on PHMSA–2023–0080.'' The docket clerk will date stamp the postcard prior to returning it to you via U.S. mail.
- *Note:* All comments received will be posted without edits to *https://www.regulations.gov,* including any personal information provided. Please see the Privacy Act heading for more information. Anyone can use the site to search all comments by the name of the submitting individual or, if the comment was submitted on behalf of an association, business, labor union, etc., the name of the signing individual. Therefore, please review the complete DOT Privacy Act Statement in the **Federal Register** at 65 FR 19477 or the Privacy Notice at *https://www.regulations.gov* before submitting comments.
- *Privacy Act Statement:* DOT may solicit comments from the public regarding certain general notices. DOT posts these comments without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at *www.dot.gov/privacy.*
- *Confidential Business Information:* Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments in response to this document contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this document it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 CFR 190.343, you may ask PHMSA to provide confidential treatment to information you give to the Agency by taking the following steps: (1) mark each page of the original document submission containing CBI as ''Confidential;'' (2) send PHMSA a copy of the original document with the CBI deleted along with the original, unaltered document; and (3) explain why the information you are submitting is CBI. Submissions containing CBI should be sent to Tewabe Asebe, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Submission containing CBI can also be emailed to Tewabe Asebe by encrypted email at *tewabe.asebe@dot.gov.* Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket.
- *Docket:* For access to the docket or to read background documents or comments, go to *https://www.regulations.gov.* Follow the online instructions for accessing the dockets. Alternatively, this information is available by visiting DOT at 1200 New Jersey Avenue SE, West Building: Room W12–140, Washington, DC 20590–0001, between 9:00 a.m. and 5:00 p.m. EST, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tewabe Asebe, Office of Pipeline Safety, by phone at 202–366–5523 or by email at *tewabe.asebe@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA is evaluating a Petition for a Declaratory Order (Petition) from Mifflin Energy Corporation (Mifflin), pursuant to 49 U.S.C. 60117(b)(1)(J).

Mifflin operated a production line in Greene County, Pennsylvania, which was subject to a free gas arrangement. Under the arrangement, gas flowed from Mifflin's production line through a pipeline owned by the landowner, with the regulator and meter placed at the juncture of the production line and the customer-owned pipeline. In March 2020, with Mifflin's consent, the landowner moved the regulator and the meter downstream of the juncture, further down the landowner's pipeline.

On April 9, 2020, a failure occurred on the landowner's piping, causing damage to a nearby residential structure.

On January 29, 2021, the Pennsylvania Public Utility Commission's (PAPUC) Bureau of Investigation and Enforcement (BI&E) requested an interpretation of 49 CFR part 192 as it concerned the facts of this incident. On September 21, 2021, OPS issued an interpretation in response to BI&E's inquiry.[1] The 2021 Interpretation stated that the piping between Mifflin's production line and the landowner's meter was a service line under § 192.3; the lease agreement did not have an impact on whether the pipe was a service line; and Mifflin was an ''operator'' within the meaning of § 192.3.

On March 20, 2023, Mifflin filed a Petition with PHMSA requesting PHMSA issue an order declaring that, under a free gas arrangement, customer-owned piping upstream of a meter is not subject to 49 CFR part 192, and that a production line operator is not responsible for ensuring compliance with part 192 on customer piping. The Petition also requested that PHMSA rescind its 2021 Interpretation issued to BI&E. The Petition is available for review in the docket for this proceeding.

Before issuing a final decision on the Petition, PHMSA will evaluate all comments received on or before the comment closing date. Comments received after the closing date will be evaluated if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment received in issuing its final decision and order, which will be published in the **Federal Register** and posted to PHMSA's website.

PHMSA notes this is the first time a person has petitioned for issuance of a declaratory order under authority granted to PHMSA by the PIPES Act of 2020. *See* Protecting Our Infrastructure of Pipelines and Enhancing Safety Act of 2020, Consolidated Appropriations Act, 2021, Division R, Public Law 116–260, section 108(a), 134 Stat. 1181, 2221, 2223; 49 U.S.C. 60117(b)(1)(J). PHMSA is committed to including an opportunity for public comment in circumstances in which it exercises its authority to issue a declaratory order.

[1] PHMSA, Interp. No. PI–21–0003, In re Pennsylvania Public Utility Commission, (Sept. 1, 2021) (the ''2021 Interpretation'').

Issued in Washington, DC, on November 3, 2023, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2023–24718 Filed 11–8–23; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[RTID 0648–XD169]

Marine Mammals; Subsistence Taking of Northern Fur Seals; Pribilof and Aleutian Islands

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

ACTION: Notification of receipt of petition for rulemaking; request for comments.

SUMMARY: NMFS announces the receipt of a petition for rulemaking under the Administrative Procedure Act (APA). The Aleut Community of St. Paul Island (ACSPI), the Traditional Council of St. George Island (TCSGI), and the Aleut Marine Mammal Commission (AMMC) have petitioned NMFS to revise regulations governing the subsistence taking of northern fur seals. The revisions requested include: changing the current hunting season on St. Paul Island, Alaska to begin on October 15, creating an annual hunting season on St. George Island, Alaska to begin on October 15 and end on May 31, and creating an annual hunting season in the Aleutian Islands in Alaska to begin on November 1 and end on April 30, with an upper take limit for the Aleutian Islands of 100 non-breeding male fur seals. NMFS solicits public comments on this request. NMFS will consider all comments and available information when determining whether to proceed with rulemaking.

DATES: Comments must be received by December 11, 2023.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2023–091, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *https://www.regulations.gov* and enter [NOAA–NMFS–2023–091] in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Anne Marie Eich, NMFS Alaska Regional Office, 709 W. 9th St., P.O. Box 21668, Juneau, AK 99802.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

Electronic copies of the petitions and letters are available at: *https://www.regulations.gov/docket/NOAA-NMFS-2023-091* or the NMFS Alaska Region website: *https://www.fisheries.noaa.gov/alaska/marine-mammal-protection/northern-fur-seal-subsistence-harvest-estimates-and-reports#subsistence-harvest-estimates.*

FOR FURTHER INFORMATION CONTACT: Michael Williams, NMFS Alaska Region, 907–271–5117, *michael.williams@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The subsistence use of northern fur seals on the Pribilof Islands is governed by regulations established under the Fur Seal Act in 50 CFR 216.71–74. These regulations were most recently revised on October 30, 2014 (79 FR 65327, November 4, 2014), and September 27, 2019 (84 FR 52372, October 2, 2019), to increase food security, consistent with traditional and cultural practices, and deregulate aspects of the subsistence use of northern fur seals on the Pribilof Islands. ACSPI, TCSGI, and AMMC report that Alaska Native subsistence users have experienced the direct effects of climate change through unprecedented storm frequency, timing, and duration. This has resulted in the reduction of the availability of and opportunity to obtain subsistence resources. As a result, the ACSPI, TCSGI, and the AMMC submitted requests to NMFS to change the regulations to expand fur seal hunting and harvesting opportunities to meet their customary and traditional needs and practices, as well as their subsistence needs. NMFS considers these requests to be a formal petition for rulemaking under the APA. The requests are as follows:

1. Change the Current Hunting Season on St. Paul Island

On November 2, 2022, ACSPI requested in a letter to NMFS that representatives from NMFS and ACSPI investigate the feasibility of changing the duration of the hunting season on St. Paul Island. Subsequent discussions by the St. Paul Island Marine Mammal Co-Management Council (which includes both NMFS and ACSPI representatives) identified regulatory changes to create greater food security and subsistence use opportunities on St. Paul Island.

Current regulations at 50 CFR 216.72(e)(1) allow subsistence hunting of northern fur seals with firearms from January 1 through May 31, annually. ACSPI requests NMFS modify regulations to allow the annual hunting season with firearms to begin October 15 and end consistent with the provisions at 50 CFR 216.72(g)(1)(i). This would result in a northern fur seal hunting season with firearms on St. Paul Island from October 15 through May 31, or when the overall quota for a calendar year is reached (2,000 juvenile male fur seals). ACSPI did not request any change to the overall quota of 2,000 juvenile northern fur seal males or the female mortality limit of 20 northern fur seals. Therefore, NMFS is not considering any changes to the quota or female mortality limit at this time.

2. Create a Hunting Season on St. George Island

Current regulations at 50 CFR 216.72(d) do not allow subsistence use of northern fur seals with firearms on St. George Island. The regulatory changes in 2014 (79 FR 65327, November 4, 2014) and 2019 (84 FR 52372, October 2, 2019) did not contemplate a hunting season to use firearms to take fur seals for subsistence on St. George Island.

The TCSGI submitted a letter to NMFS on June 8, 2023, requesting equitable subsistence hunting opportunities for the community of St. George by creating a hunting season using firearms annually from October 15 to May 31, similar to that proposed on St. Paul Island. The letter requested no change to the overall quota of 500 juvenile males, 150 male pups, or the female mortality limit of 3 northern fur seals. Therefore, NMFS is not considering any changes to the quota or female mortality limit at this time.

3. Create a Hunting Season and Associated Upper Take Limit in the Aleutian Islands in Alaska

On May 1, 2023, AMMC submitted a letter to NMFS outlining their interest in resuming their traditional subsistence practices of taking fur seals. Harvesting fur seals on land in the Aleutian Islands is not practical, as the only breeding location is the uninhabited Bogoslof Island. However, northern fur seals migrate through the AMMC region (*i.e.,* the Aleutian Islands and Alaska Peninsula), which if authorized for subsistence use, could provide an additional subsistence resource for AMMC member communities. The 2019 Alaska Marine Mammal Stock Assessment Report (SAR) indicates declining availability of harbor seals over the past decade in the Aleutian Islands (Muto *et al.,* 2020). The 2019 SAR for the Western Distinct Population Segment (DPS) of Steller sea lion, which includes most sea lions in the Aleutian Islands where hunting may occur, also notes historically low abundance and availability in this region (some Eastern DPS animals may occur in the area, but it is unclear to what extent) (Jemison *et al.,* 2013; Jemison *et al.,* 2018; Muto *et al.,* 2020). Both harbor seals and Steller sea lions are important subsistence resources in the Aleutian region, and hunting of northern fur seals for subsistence would improve food security for AMMC member tribes. The AMMC letter requests a revision of the regulations at 50 CFR 216.72(b) to allow a total take of 100 non-breeding male fur seals by hunting with firearms from November 1 through April 30 in the AMMC region from their 11 member tribes in the communities of Atka, Belkofski, Akutan, False Pass, Agdaagux, Nelson Lagoon, Nikolski, Pauloff Harbor, Qagan Tayagungin, Unalaska, and Unga.

Request for Information

The Assistant Administrator for Fisheries, has determined that the petition contains enough information to enable NMFS to consider the substance of the petition. NMFS solicits public comment on these three related requests to modify regulations that govern the taking of fur seals for subsistence purposes by Alaska Native residents of the Pribilof and Aleutian Islands. NMFS is particularly interested in information that would allow an evaluation of the effects these potential changes may have on food security, the fur seal population, and the temporal and spatial distribution of hunting effort. NMFS will consider public comments received in determining whether to proceed with the requested regulations revisions. Upon determining whether to initiate the requested rulemaking, the Assistant Administrator for Fisheries, will publish in the **Federal Register** the Agency's notice of proposed rulemaking with a request for public comment.

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Muto, M.M., V.T. Helker, B.J. Delean, R.P. Angliss, P.L. Boveng, J.M. Breiwick, B.M. Brost, M.F. Cameron, P.J. Clapham, S.P. Dahle, M.E. Dahlheim, B.S. Fadely, M.C. Ferguson, L.W. Fritz, R.C. Hobbs, Y.V. Ivaschenko, A.S. Kennedy, J.M. London, S.A. Mizroch, R.R. Ream, E.L. Richmond, K.E.W. Shelden, K.L. Sweeney, R.G. Towell, P.R. Wade, J.M. Waite, and A.N. Zerbini. 2020. Alaska Marine Mammal Stock Assessments, 2019. U.S. Dept. of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Alaska Fisheries Science Center, Seattle, WA, July 2020. NOAA Technical Memorandum NMFS–AFSC–404, 395 pp.

Dated: November 6, 2023.

Samuel D. Rauch, III,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 231101–0258]

RIN 0648–BM46

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Resources of the Gulf of Mexico; Amendment 56

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Amendment 56 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) as prepared by the Gulf of Mexico

Fishery Management Council (Council). If implemented for gag in the Gulf of Mexico (Gulf), this proposed rule would revise catch levels, recreational accountability measures (AMs), and the recreational fishing season. In addition, Amendment 56 would establish a rebuilding plan for the overfished stock, revise stock status determination criteria, and sector harvest allocations. The purpose of this action is to implement a rebuilding plan for gag and revised management measures to end overfishing and rebuild the stock.

DATES: Written comments on this proposed rule must be received no later than December 11, 2023.

ADDRESSES: You may submit comments on the proposed rule identified by ''NOAA–NMFS–2023–0103'' by either of the following methods:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *https://www.regulations.gov* and enter ''NOAA–NMFS–2023–0103'' in the Search box. Click the ''Comment'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit all written comments to Dan Luers, NMFS Southeast Regional Office, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *https://www.regulations.gov* without change. All personal identifying information, *e.g.,* name and address, confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments—enter ''N/A'' in required fields if you wish to remain anonymous.

An electronic copy of Amendment 56, which includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-56-modifications-catch-limits-sector-allocation-and-recreational-fishing-seasons*.

FOR FURTHER INFORMATION CONTACT: Dan Luers, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *daniel.luers@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS, with the advice of the Council, manages the reef fish fishery, which includes gag, under the FMP in Federal waters of the Gulf. The Council prepared the FMP, which the Secretary of Commerce approved, and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield (OY) from federally managed fish stocks. These mandates are intended to ensure fishery resources are managed for the greatest overall benefit to the Nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems.

All weights in this proposed rule are given in gutted weight unless indicated otherwise.

Gag in the Gulf exclusive economic zone (EEZ) are found primarily in the eastern Gulf. Juvenile gag are estuarine dependent and are often found in shallow seagrass beds. As gag mature, they move to deeper offshore waters to live and spawn. Gag is managed as a single stock with commercial and recreational catch limits. The allocation of the stock annual catch limit (ACL) between the commercial and recreational sectors established by Amendment 30B to the FMP is currently 39 percent commercial and 61 percent recreational.

Commercial fishing for gag is managed under the individual fishing quota (IFQ) program for groupers and tilefishes (GT–IFQ program), which began January 1, 2010, upon implementation of the final rule for Amendment 29 to the FMP (74 FR 44732, August 31, 2009; 75 FR 9116, March 1, 2010). Under the GT–IFQ program, the commercial quota for gag is set 23 percent below the gag commercial ACL, and NMFS distributes allocation (in pounds) of gag on January 1 each year to those who hold shares (in percent) of the gag total commercial quota. Both gag and red grouper, another grouper species managed under the GT–IFQ program, have a commercial multi-use provision that allows a portion of the gag quota to be harvested under the red grouper allocation, and vice versa. As explained further in Amendment 56, the multi-use provision is based on the difference between the respective red grouper and gag ACLs and quotas. However, if gag is under a rebuilding plan, as would occur under Amendment 56 and this proposed rule, the percentage of red grouper multi-use allocation is equal to zero. Commercial harvest of gag is also restricted by area closures and a minimum size limit.

NMFS, with the advice of the Council, manages the recreational harvest of gag with an ACL, an annual catch target (ACT) set approximately 10 percent below the ACL, in-season and post-season AMs, seasonal and area closures, a minimum size limit, and daily bag and possession limits.

The most recent stock assessment for gag was completed in 2021 through Southeast Data, Assessment, and Review 72 (SEDAR 72), and concluded that the gag stock is overfished is undergoing overfishing as of 2019. Compared to the previous assessment for gag, SEDAR 72 used several improved data sources, including corrections for the potential misidentification between black grouper and gag, which are similar looking species, to better quantify estimates of commercial discards. SEDAR 72 also used updated recreational catch and effort data from the Marine Recreational Information Program (MRIP) Access Point Angler Intercept Survey and Fishing Effort Survey (FES) through 2019. MRIP–FES replaced the MRIP Coastal Household Telephone Survey (CHTS) in 2018. Prior to the implementation of MRIP in 2008, recreational landings estimates were generated using the Marine Recreational Fisheries Statistics Survey (MRFSS). Because MRIP–FES is designed to more accurately measure fishing activity, total recreational fishing effort estimates generated from MRIP–FES are generally higher than both the MRFSS and MRIP–CHTS estimates. Prior to SEDAR 72, the most recent stock assessment for gag was SEDAR 33 Update (2016), which indicated that gag was not subject to overfishing and was not overfished. The SEDAR 33 Update used recreational catch and effort data generated by MRIP–CHTS.

SEDAR 72 also accounted for observations of red tide mortality directly within the stock assessment model. Gag is vulnerable to red tide events and was negatively affected by these disturbances in 2005, 2014, 2018, and projected for 2021. Modeling changes were also made in SEDAR 72 to improve size estimates of gag retained by commercial and for-hire (charter vessels and headboats) fishermen, and private anglers.

The Council's Scientific and Statistical Committee (SSC) reviewed the results of SEDAR 72 in November 2021 and concluded that the assessment was consistent with the best scientific information available and suitable for

informing fisheries management. On January 26, 2022, NMFS notified the Council that gag was overfished and undergoing overfishing. The Magnuson-Stevens Act requires that a rebuilding plan be developed and implemented within 2 years of the notification. The Council developed Amendment 56 to comply with this mandate.

At its January 2022 meeting, the Council requested that the NMFS Southeast Fisheries Science Center update the SEDAR 72 base model by replacing MRIP–FES landings estimates for the Florida private angling mode with landings estimates produced by the Florida Fish and Wildlife Conservation Commission's State Reef Fish Survey (SRFS). Historically, SRFS estimates a slightly larger harvest of gag by private anglers and state charter vessels (in Florida) than MRIP–CHTS, but estimates a substantially smaller harvest of gag by private anglers and state charter vessels than MRIP–FES. This alternative model run of SEDAR 72 (''SRFS Run'') also used MRIP–FES data for the federally permitted charter vessel and shore modes, and Southeast Region Headboat Survey (SRHS) data for federally permitted headboats. The results of the SRFS Run was presented to the Council's SSC at its July 2022 meeting. The SSC found the SEDAR 72 SRFS Run to be consistent with the best scientific information available. The SSC determined that SRFS is a comprehensive survey for the gag private angling component of the recreational sector given that greater than 95 percent of private angling landings of gag are captured by the SRFS sampling frame and the SRFS program's collection protocol has been certified by the NMFS Office of Science and Technology as scientifically rigorous. NMFS worked in conjunction with the State of Florida to develop a calibration model to rescale historic effort estimates so that they could be compared to new estimates from SRFS. This calibration model was reviewed and approved by peer-review through the NOAA Office of Science and Technology in May 2022. Information about the calibration and the SSC's review of the SEDAR 72 SRFS Run can be found here: *https://gulfcouncil.org/meetings/scientific-and-statistical-meetings/july-2022/*. The results of the SEDAR 72 SRFS Run were consistent with the results of the SEDAR 72 base model in that both concluded that the gag stock is overfished and undergoing overfishing.

Because Amendment 56 would not likely be implemented until 2024, and the Council recognized that maintaining the 2023 catch limits for gag would continue to allow overfishing, the Council sent a letter to NMFS, dated July 18, 2022 (Appendix A in Amendment 56), requesting interim measures that would reduce overfishing by reducing the gag stock ACL from 3.12 million lb (1.415 million kg) to 661,901 lb (300,233 kg). The Council determined, and NMFS agreed, that for this short-term reduction in harvest it was appropriate to maintain the current sector allocations of 39 percent commercial and 61 percent recreational, and the availability of red grouper multi-use and gag multi-use under the IFQ program. In addition to the reduction in the catch limits, the Council requested that the recreational fishing season for 2023 begin on September 1 and close on November 10, rather than the existing open season of June 1 through December 31. NMFS agreed and implemented these interim measures through a temporary rule effective on May 3, 2023 (88 FR 27701, May 3, 2023). The measures in the temporary rule are effective for 180 days (through October 30, 2023), and NMFS expects to extend them for up to 186 additional days while NMFS reviews public comments on this proposed rule and Amendment 56, and prepares any final regulations. Because the SSC's review of the SEDAR 72 SRFS Run occurred after the Council's decision to request for interim measures for gag, the recreational catch limits in the temporary rule are consistent with MRIP–FES calibrated landings, and are not directly comparable to the catch limits recommended in Amendment 56 and this proposed rule.

Based on the results of the SEDAR 72 SRFS Run and SSC recommendations, the Council recommended the following changes for gag through Amendment 56:

- Revise the maximum sustainable yield (MSY) proxy, OY, and status determination criteria (SDC);
- Establish a rebuilding plan for the stock, and revise the overfishing limit (OFL), acceptable biological catch (ABC), and stock ACL consistent with that rebuilding plan;
- Revise the commercial-recreational allocation of the stock ACL and set new commercial and recreational sector ACLs, sector ACTs, and commercial quota;
- Modify the recreational AMs; and
- Revise the Federal recreational fishing season.

The current MSY proxy is based on the yield associated with a fishing mortality rate (F) associated with the maximum yield per recruit (F_{MAX}). The SSC recommended a more conservative MSY proxy using the yield associated with F that would result in a spawning stock biomass (SSB) of 40 percent spawning potential ratio (SPR), where SPR is the ratio of the SSB to its unfished state. This revised MSY proxy would be used to specify the long-term OY and SDC, and informs the catch level projections produced by the SEDAR 72 SRFS Run.

For gag, the sector allocations of the stock ACL impact the catch level projections produced by SEDAR 72. As more of the stock ACL is allocated to the recreational sector, the proportion of recreational discards and associated mortality increases. Recreational discard mortality rates are assumed to be less than commercial discard mortality rates but the total amount of recreational discards is considerably greater than commercial discards. Generally, a gag caught and released by a recreational fisherman has a greater likelihood of survival than by a commercial fisherman because of how and where they fish. However, because of the much higher numbers of gag that are released by the recreational sector compared to the commercial sector, the total number of discarded fish that die from recreational fishing exceeds dead discards from commercial fishing. This results in additional mortality for the stock and a lower projected annual yield, which means a lower OFL, ABC, and stock ACL. However, higher number of dead discards is not due to any change in how the recreational sector operates in the fishery but occurs because the SEDAR 72 SRFS Run data estimated greater fishing effort, and consequently a greater number of fish being caught, which included discards and the associated mortality from discarding fish.

In Amendment 56, the Council considered two allocation alternatives: (1) maintaining the current allocation of 39 percent commercial and 61 percent recreational, which was based on MRFSS data from 1986 through 2005, and (2) updating historical recreational landings using SRFS Run calibrated data from the same 1986 through 2005 period, which would result in an allocation of the stock ACL of 35 percent to the commercial sector and 65 percent to the recreational sector. During the development of these two allocation alternatives, the Council also reviewed allocation options based on five additional historical reference periods from 1986 to 2019. These options differed by less than 1 percent up to less than 4 percent. Because the options were so similar, the Council decided to move forward with detailed analysis of only the two alternatives described above. The Council determined that the second alternative

would best represent the historic landings for each sector while accounting for the change from MRFSS data to SRFS data. Based on the results of the SEDAR 72 SRFS Run and using the proposed allocation of 35 percent commercial and 65 percent recreational, the Council recommended OFLs and ABCs for gag during 2024–2028, and also recommended the stock ACL be set equal to the ABC.

Management Measures Contained in This Proposed Rule

If implemented by NMFS, this proposed rule would modify the gag stock and sector ACLs, sector ACTs, commercial quota, recreational AMs, and recreational fishing season.

Annual Catch Limits and Annual Catch Targets

Prior to the implementation of the 2023 temporary rule, the stock ACL was 3.120 million lb (1.415 million kg) and was allocated 39 percent to the commercial sector and 61 percent to the recreational sector. The resulting commercial ACL and quota were 1.217 million lb (0.552 million kg) and 0.939 million lb (0.426 million kg) respectively, and the recreational ACL and ACT were 1.903 million lb (0.863 million kg) and 1.708 million lb (0.775 million kg) respectively. The commercial ACT is not codified. These catch limits are based on the results of the 2016 SEDAR 33 Update (2016), which included recreational landings estimates generated from MRIP–CHTS. The 2023 temporary rule reduced these catch limits consistent with the Council's request. Therefore, the current commercial ACL and commercial quota are 258,000 lb (117,027 kg) and 199,000 lb (90,265 kg), respectively, and the recreational ACL and ACT are 403,759 lb (183,142 kg) and 362,374 lb (164,370 kg), respectively. These catch limits are based on the results of the initial SEDAR 72 base model run, which included recreational landings estimates generated using MRIP–FES. Amendment 56 and this proposed rule would set the stock ACL for gag at 444,000 lb (201,395 kg) in 2024, and would allocate approximately 35 percent to the commercial sector and approximately 65 percent to the recreational sector. This results in a 155,000-lb (70,307-kg) commercial ACL, and a 288,000-lb (130,635-kg) recreational ACL for 2024. These catch limits are based on the results of the SEDAR 72 SRFS Run, which included recreational landings estimates generated using SRFS. Because of the different recreational landings estimates used to determine the catch limits described above, those catch limits are not directly comparable. However, the proposed catch limits are a significant reduction compared to the catch limits that would go back into effect after the 2023 temporary rule expires.

Amendment 56 and this proposed rule would set catch levels from 2024 through 2028, which increase during the time series. The 2028 catch levels would continue after 2028 unless modified by subsequent rulemaking. All of the catch levels were rounded down to the nearest thousand pounds. Therefore, the sum of the sector ACLs does not equal the stock ACL.

Based on the Council's recommendation, this proposed rule would modify the commercial quota such that it would be set equal to the commercial ACT, and would be approximately 5 percent below the commercial ACL. The current buffer between the commercial ACL and commercial quota is 23 percent. The Council recommended reducing this buffer, because there have been considerable improvements in the estimation of commercial landings and discards of gag since the buffer was put in place through Amendment 32 to the FMP. Further, the fraction of gag discarded compared to the total number of gag caught has remained low. NMFS does not expect the actions in Amendment 56 and this proposed rule to significantly increase commercial discards of gag. Therefore, the commercial quota would be approximately 95 percent of the commercial ACL.

For the recreational sector, the current buffer between the ACL and ACT is approximately 10 percent. The Council elected to choose a more conservative ACT than if they had applied the ACL and ACT control rule, which would have resulted in the same 10 percent buffer between the ACL and ACT. Instead, the Council decided to double that buffer to increase the probability of rebuilding gag by accounting for uncertainty in managing the recreational harvest and further reducing fishing mortality and discards that result from directed harvest. Thus, this proposed rule would implement a recreational ACT that is approximately 20 percent below the recreational ACL. Table 1 shows the catch levels recommended in Amendment 56, and except for the stock ACL, these catch levels are included in the proposed regulatory text at the end of this rule. Values proposed for 2028 would continue in subsequent fishing years unless modified through a subsequent rulemaking.

TABLE 1—PROPOSED STOCK ACL AND SECTOR CATCH LEVELS

Year	Stock ACL lb (kg)	Com ACL lb (kg)	Rec ACL lb (kg)	Com ACT & Quota lb (kg)	Rec ACT lb (kg)
2024	444,000 (201,395)	155,000 (70,307)	288,000 (130,635)	147,000 (66,678)	230,000 (104,326)
2025	615,000 (278,959)	215,000 (97,522)	399,000 (180,983)	204,000 (92,533)	319,000 (144,696)
2026	769,000 (348,813)	269,000 (122,016)	499,000 (226,343)	255,000 (115,666)	399,000 (180,983)
2027	943,000 (427,738)	330,000 (149,685)	613,000 (278,052)	313,000 (141,974)	490,000 (222,260)
2028	1,156,000 (524,353)	404,000 (183,251)	751,000 (340,648)	383,000 (173,726)	600,000 (272,155)

Note: Values are displayed in gutted weight. Abbreviations used in this table: Com means commercial and Rec means recreational. Lb is pounds and kg is kilograms.

Recreational Accountability Measures

Currently for the recreational sector, the AMs require NMFS to prohibit harvest of gag for the rest of the fishing year when the recreational ACL is projected to be met. The AMs also state that if the recreational ACL for gag is exceeded in a fishing year, then in the following fishing year, NMFS will maintain the prior year's ACT at the same level, unless the best scientific information available determines that is unnecessary, and the fishing season duration will be set based on the recreational ACT. In addition to the previous measures, if gag is overfished and the recreational ACL is exceeded in a fishing year, NMFS will reduce the ACL and ACT in the following fishing year by the amount of the ACL overage, unless the best scientific information available determines that is unnecessary. Amendment 56 and this proposed rule would change the AMs to require that NMFS prohibit harvest when the recreational ACT is projected to be met regardless of whether there

was an overage of the ACL in the prior year. NMFS and the Council expect this change, in combination with the increased buffer between the recreational ACL and ACT, to decrease the likelihood of recreational harvest exceeding the recreational ACL. The larger buffer between the recreational ACL and ACT would also reduce the level of discards associated with directed harvest, increasing the probability of meeting the 18 years rebuilding time.

This proposed rule would also remove the provision that requires the previous year's ACT to be maintained in the year following an overage of the ACL. Because the stock is overfished and NMFS is required to reduce the ACL and ACT by any overage, an additional adjustment that retains the lower ACT is unnecessary.

Recreational Fishing Season

Before NMFS implemented the temporary recreational fishing season for gag in 2023, the season for Gulf gag began on June 1 and continued through December 31 (74 FR 17603, April 16, 2009). During the effective period of the temporary rule, the recreational fishing season opened on September 1 and was to close on November 10, 2023, unless NMFS projected the recreational ACL would be harvested prior to that date. On October 4, 2023, NMFS published a temporary rule in the **Federal Register** closing the recreational harvest of gag effective on October 19, 2023 (88 FR 68495).

This proposed rule would modify the recreational fishing season for gag so the season would begin each year on September 1. Unlike the season implemented by the temporary rule, Amendment 56 and this proposed rule would not establish a predetermined season closure date. Consistent with the proposed changes to the AMs, NMFS would close the gag recreational season when landings are projected to reach the recreational ACT. NMFS would use the best data available to project the duration of the proposed recreational season in 2024 and in following years. NMFS expects to have better estimates of recreational fishing effort and catch of gag for a season beginning September 1 after data from 2023 are finalized. This should reduce the uncertainty in projecting an appropriate closure date for the 2024 recreational fishing season. Once the ACT for gag is projected to be met and harvest is closed, recreational fishing for gag would not resume before the end of the year because data would not yet be available to determine whether landings did reach the ACT.

Management Measures in Amendment 56 That Would Not Be Codified by This Proposed Rule

In addition to the measures that would be codified through this proposed rule, Amendment 56 would revise the MSY proxy, OY, and SDC for gag. Amendment 56 would also revise the gag OFL, ABC, and sector allocations.

Maximum Sustainable Yield, Optimum Yield, and Status Determination Criteria

Based on the results of SEDAR 72, Amendment 56 would revise MSY proxy, OY, as well as the SDC used to determine whether overfishing is occurring or the stock is overfished. The proxy for MSY would be defined as the yield when fishing at $F_{40\%SPR}$, where SPR is the ratio of SSB to its unfished state. The maximum fishing mortality threshold (MFMT) would be equal to $F_{40\%SPR}$. The minimum stock size threshold (MSST) would be defined as 50 percent of the biomass at the new MSY proxy. The OY would be conditional on the rebuilding plan, such that if the stock is under a rebuilding plan, OY would be equal to the stock ACL; and if the stock is not under a rebuilding plan, OY would be equal to 90 percent of MSY or its proxy. Currently, MSY is defined in the FMP as F assuming F_{MAX}, and the MFMT is F_{MAX}. The MSST is defined as 50 percent of the biomass at F_{MAX}. The OY is defined as 75 percent of the yield at F_{MAX}. The proposed changes to the MSY, OY, and SDC represent a more conservative approach to management of that would rebuild the gag stock to a more robust size, which should be more resilient to episodic mortality from red tide, harmful algal blooms, and sustainable levels of fishing mortality.

Stock Rebuilding Plan Timeline and Modification of OFL, ABC, and Sector Allocations

Amendment 56 would establish a rebuilding plan and set the rebuilding time for Gulf gag at 18 years, which is based on the amount of time the stock is expected to take to rebuild if fished at 75 percent of the MSY proxy (yield at $F_{40\%SPR}$). Amendment 56 evaluated two other rebuilding times: 11 years, which is the minimum time to rebuild in the absence of fishing mortality; and 22 years, which is twice the minimum time. In addition, the Council initially considered an alternative rebuilding time of 19 years, which is based on the minimum rebuilding time plus one generation time (8 years for gag). Because this option resulted in a rebuilding time similar to fishing at 75 percent of the MSY proxy, the Council removed this alternative from further consideration (Appendix C in Amendment 56). The Council also discussed whether to consider in more detail a rebuilding time between 11 years and 18 years. The Council decided not to add an additional alternative because a slightly shorter rebuilding time would provide minimal benefits to the stock but increase the negative impacts to fishing communities.

Consistent with the rebuilding time recommended by the Council, Amendment 56 would revise the OFL and ABC, and set the stock ACL equal to the ABC. In addition, Amendment 56 would revise the sector allocations from 39 percent commercial and 61 percent recreational to 35 percent commercial and 65 percent recreational, and revise the sector ACLs consistent with the revised allocations as discussed earlier in this proposed rule. The current OFL and ABC, and the OFLs and ABCs for 2024 through 2028, which increase over the time series as projected for the rebuilding plan, are shown in Table 2. However, the current OLF and ABC are not directly comparable to the proposed OFLs and ABCs because they are based, in part, on recreational landings estimates produced by the different surveys discussed above. Values in 2028 would continue for subsequent fishing years unless modified through another action by the Council or NMFS.

TABLE 2—CURRENT AND PROPOSED OFLS AND ABCS FOR GAG

Year	OFL in pounds (kg)	ABC in pounds (kg)
2023	4,180,000 (1,896,016)	3,120,000 (1,415,208)
2024	591,000 (268,073)	444,000 (201,395)
2025	805,000 (365,142)	615,000 (278,959)
2026	991,000 (449,510)	769,000 (348,813)

TABLE 2—CURRENT AND PROPOSED OFLS AND ABCS FOR GAG—Continued

Year	OFL in pounds (kg)	ABC in pounds (kg)
2027	1,200,000 (544,311)	943,000 (427,738)
2028	1,454,000 (659,523)	1,156,000 (524,353)

Note: Values are displayed in gutted weight. Kg is kilograms. The ABC values also equal the current and proposed stock ACL values for gag.

Proposed Administrative Change to Codified Text Not in Amendment 56

NMFS also proposes to clarify the regulations at 50 CFR 622.8(c). These regulations allow NMFS to re-open harvest for a stock in the same fishing year if data indicate that a quota or ACL was not reached as previously projected. Several stocks have ACTs that are also codified as quotas. However, some ACTs, such as the recreational ACT for gag, do not have corresponding quotas, and therefore may not appear to be included in the current authority to re-open. NMFS proposes to modify the regulations in section 622.8(c) to provide a more general reference to allowable harvest levels. This would be consistent with the framework procedures in the relevant Gulf and South Atlantic fishery management plans that allow NMFS to re-open harvest if additional data shows that NMFS closed the season prematurely.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 56, the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

The Magnuson-Stevens Act provides the legal basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting and record-keeping requirements are introduced by this proposed rule.

NMFS prepared an initial regulatory flexibility analysis (IRFA) for this proposed rule, as required by section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of this proposed rule, why it is being considered, and the purposes of this proposed rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of the preamble. A copy of the full analysis is available from NMFS (see the **ADDRESSES** section of this proposed rule). A summary of the IRFA follows.

The objective of this proposed rule is to use the best scientific information available to end overfishing of gag and rebuild the stock to a level commensurate with MSY, consistent with the authority under the Magnuson-Stevens Act. All monetary estimates in the following analysis are in 2021 dollars.

Amendment 56 would revise the MSY, OY, and SDC for gag based on the results of the updated SEDAR 72 SRFS Run as reviewed by the Council's SSC. The definition of MSY would change from F_{MAX} to the yield when fishing at $F_{40\%SPR}$. The definition of MFMT would change from being equal to F_{MAX} to being equal to the fishing mortality at the F_{MSY} proxy (*e.g.,* $F_{40\%SPR}$). The definition of MSST would change from 50 percent of B_{MAX} to 50 percent of the biomass at MSY or its proxy. OY is currently defined as 75 percent of the yield at F_{MAX}. The proposed definition of OY would be conditional on whether a rebuilding plan is in place. Specifically, if the stock is under a rebuilding plan, OY would be equal to the stock ACL. However, if the stock is not under a rebuilding plan, OY would be equal to 90 percent of MSY or its proxy.

Amendment 56 would also revise the sector allocation of the stock ACL from 39 percent commercial and 61 percent recreational to approximately 35 percent commercial and 65 percent recreational. Amendment 56 would also establish a rebuilding plan based on the amount of time the stock is expected to take to rebuild based on the yield when fishing at 75 percent of $F_{40\%SPR}$, which is equal to 18 years. In turn, the proposed rebuilding plan in combination with the proposed sector allocation would change the OFL, ABC, stock ACL, commercial ACL, and the recreational ACL. Based on the current allocation of the stock ACL between sectors, the OFL, ABC, stock ACL, commercial ACL, recreational ACL, and commercial quota, and recreational ACT would be 4.180 million lb (1.896 million kg), 3.120 million lb (1.415 million kg), 3.120 million lb (1.415 million kg), 1.217 million lb (0.552 million kg), 1.903 million lb (0.863 million kg), and 0.939 million lb (0.426 million kg), and 1.708 million lb (0.775 million kg), respectively, in 2024 and future years if no action is taken. The recreational portion of the OFL, ABC, stock ACL, the recreational ACL, and the recreational ACT are based on MRIP–CHTS data. Under the proposed sector allocation and rebuilding plan, the OFL, ABC, stock ACL, recreational ACL, commercial ACL, recreational ACT, and commercial quota would be reduced in 2024 and subsequently increase through 2028 as indicated in Tables 1 and 2. The recreational portion of the revised OFL, ABC, stock ACL, the recreational ACL, and the recreational ACT are based on recreational landings estimates used in the SEDAR 72 SRFS Run. Therefore, the different stock ACLs and recreational ACLs and ACTs not directly comparable.

This proposed rule would also revise the buffer between the recreational ACL and ACT, which is currently 10.25 percent (*i.e.,* the recreational ACT is 89.75 percent of the recreational ACL). Under the proposed rule, the buffer between the recreational ACL and ACT would be approximately 20 percent (*i.e.,* the recreational ACT would be approximately 80 percent of the recreational ACL).

In addition, this proposed rule would also modify the buffer the between the commercial ACL and quota, and set the quota equal to the ACT. The commercial quota is currently set at approximately 77 percent of the commercial ACL. The commercial ACT is not codified. This proposed rule would set the commercial ACT equal to approximately 95 percent of the commercial ACL and set commercial quota equal to the commercial ACT. Thus, the commercial quota would be approximately 95 percent of the commercial ACL.

Finally, this proposed rule would change the recreational season start date and modify the recreational AMs for gag. Specifically, the recreational season start date would change from June 1 to September 1 each year. The current AM requires NMFS to prohibit harvest when the recreational ACL is projected to be met, whereas this proposed rule would require NMFS to prohibit harvest when the recreational ACT is projected to be met. The current AM also requires

NMFS to maintain the recreational ACT for the following fishing year at the level of the prior year's ACT unless the best scientific information available determines that maintaining the prior year's ACT is unnecessary. This provision would be removed under the proposed rule. Given these individual actions, this proposed rule is expected to regulate commercial fishing businesses that possess gag shares in the GT–IFQ program and for-hire fishing businesses (charter vessels and headboats) that target gag.

The gag commercial quota is allocated annually based on the percentage of gag shares in each IFQ account. For example, if an account possesses 1 percent of the gag shares and the commercial quota is 1 million lb (0.45 million kg), then that account would receive 10,000 lb (4,536 kg) of commercial gag quota. Although it is common for a single IFQ account with gag shares to be held by a single business, some businesses have multiple IFQ accounts with gag shares. As of July 8, 2021, there were 536 IFQ accounts, of which 506 IFQ accounts held gag shares. These accounts and gag shares were owned by 455 businesses. Thus, it is assumed this proposed rule would regulate 455 commercial fishing businesses.

A valid charter vessel/headboat permit for Gulf reef fish is required to legally harvest gag on a recreational for-hire fishing trip. NMFS does not possess complete ownership data regarding businesses that hold a charter vessel/headboat permit for Gulf reef fish, and thus potentially harvest gag. Therefore, it is not currently feasible to accurately determine affiliations between vessels and the businesses that own them. As a result, for purposes of this analysis, it is assumed each for-hire vessel is independently owned by a single business, which is expected to result in an overestimate of the actual number of for-hire fishing businesses regulated by this proposed rule.

NMFS also does not have data indicating how many for-hire vessels actually harvest gag in a given year. However, in 2020, there were 1,289 vessels with valid charter vessel/headboat permits for Gulf reef fish. Further, gag is only targeted and almost entirely harvested in waters off the west coast of Florida. Of the 1,289 federally permitted vessels, 803 were homeported in Florida. Of these permitted vessels, 62 are primarily used for commercial fishing rather than for-hire fishing purposes, and thus are not considered for-hire fishing businesses (*i.e.,* 1,227 vessels are for-hire fishing businesses). In addition, 46 of these permitted vessels are considered headboats, which are considered for-hire fishing businesses. However, headboats take a relatively large, diverse set of anglers to harvest a diverse range of species on a trip, and therefore do not typically target a particular species exclusively. Therefore, it is assumed that no headboat trips would be canceled, and thus no headboats would be directly affected as a result of this proposed rule. However, charter vessels often target gag. Of the 803 vessels with a valid charter vessel/headboat permit for Gulf reef fish that are homeported in Florida, 695 vessels are charter vessels. A recent study reported that 76 percent of charter vessels with a valid charter vessel/headboat permit in the Gulf were active in 2017, *i.e.,* 24 percent were not fishing. A charter vessel would only be directly affected by this proposed rule if it used to go fishing. Given this information, NMFS' best estimate of the number of charter vessels that are likely to harvest gag in a given year is 528, and thus this proposed rule is estimated to regulate 528 for-hire fishing businesses.

For RFA purposes, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (50 CFR 200.2). A business primarily involved in the commercial fishing industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and its combined annual receipts (revenue) are not in excess of $11 million for all of its affiliated operations worldwide. NMFS does not collect revenue data specific to commercial fishing businesses that have IFQ accounts; rather, revenue data are collected for commercial fishing vessels in general. It is not possible to assign revenues earned by commercial fishing vessels back to specific IFQ accounts and the businesses that possess them because quota is often transferred across many IFQ accounts before it is used by the business on a vessel for harvesting purposes, and specific units of quota cannot be tracked. However, from 2017 through 2021, the maximum annual gross revenue earned by a single commercial fishing vessel during this time was about $3.25 million. Based on this information, all commercial fishing businesses regulated by this proposed rule are determined to be small entities for the purpose of this analysis.

For other industries, the Small Business Administration has established size standards for all major industry sectors in the U.S., including for-hire businesses (North American Industry Classification System code 487210). A business primarily involved in for-hire fishing is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has annual receipts (revenue) not in excess of $12.5 million for all its affiliated operations worldwide. The maximum annual gross revenue for a single headboat in the Gulf was about $1.38 million in 2017. On average, annual gross revenue for headboats in the Gulf is about three times greater than annual gross revenue for charter vessels, reflecting the fact that businesses that own charter vessels are typically smaller than businesses that own headboats. Based on this information, all for-hire fishing businesses regulated by this proposed rule are determined to be small businesses for the purpose of this analysis.

If implemented, NMFS expects this proposed rule to regulate 455 of the 536 businesses with IFQ accounts, or approximately 85 percent of those commercial fishing businesses. Further, NMFS expects this proposed rule would regulate 528 of the 1,227 for-hire fishing businesses with valid charter vessel/headboat permits for Gulf reef fish, or approximately 43 percent of those for-hire fishing businesses. NMFS has determined that, for the purpose of this analysis, all regulated commercial and for-hire fishing businesses are small entities. Based on this information, NMFS expects the proposed rule to affect a substantial number of small entities.

Because NMFS does not collect revenue and cost data for the commercial fishing businesses that are expected to be regulated by this proposed rule, direct estimates of their economic profits are not available. However, economic theory suggests that annual allocation (quota) prices should reflect expected annual economic profits, which allows economic profits to be estimated indirectly. Further, the 455 businesses with gag shares also own shares in the other IFQ share categories and thus are expected to earn profits from their ownership of these shares as well, *i.e.,* red snapper, red grouper, shallow-water grouper, deep-water grouper, and tilefish.

However, economic profits will only be realized if the allocated quota is used for harvesting purposes. For example, practically all of the commercial red snapper quota has been used for harvesting in recent years, and so it is assumed that all of that quota will be harvested in the foreseeable future. Important management changes have occurred for red grouper, which partly

resulted in 96 percent of the commercial quota being harvested in 2021. Thus, this analysis also assumes that all of the red grouper quota will be harvested in the future as well. However, based on 2017–2021 data, only 82 percent of the deep-water grouper quota, 38 percent of the shallow-water grouper quota, and 73 percent of the tilefish quota have been harvested, and that is expected to continue in the foreseeable future. For gag, the quota utilization rate from 2017 to 2021 was approximately 52 percent. Given these quota utilization rates in combination with average annual allocation prices from 2017 to 2021 and annual commercial quotas in 2021, NMFS estimates that the total expected economic profits for businesses with gag shares are at least $29.4 million at the present time. This estimate does not account for any economic profits that may accrue to businesses with gag shares that also own commercial fishing vessels that harvest non-IFQ species. Such profits are likely to be small because harvest of IFQ species accounts for around 84 percent of commercial IFQ vessels' annual revenue and economic profits from the harvest of non-IFQ species tend to be smaller than those from IFQ species. Given that there are 455 businesses with gag shares, NMFS expects the average annual economic profit per commercial fishing business is at least $64,620.

Most of these economic profits (84 percent) are the result of owning red snapper shares. Only approximately $502,930 (or 1.7 percent) of the expected economic profits is due to the ownership of gag shares. This proposed rule is only expected to affect economic profits from the ownership of gag shares. Specifically, the proposed action to change the sector allocation of the stock ACL and implement a rebuilding plan, which would change the stock ACL, would reduce the commercial ACL and commercial quota from their current values of 1.217 million lb and 939,000 lb, respectively. The average commercial ACL and commercial quota from 2024 through 2028 would be 275,000 lb and 212,000 lb, respectively, under the proposed action.

However, average annual commercial landings of gag from 2017 to 2021 were only 492,401 lb, noticeably below the commercial quota. Because average annual landings exceed the proposed commercial quotas through 2028, it is assumed all of the proposed commercial quota will be harvested in each year through 2028, and the expected average reduction in annual commercial landings will be 280,401 lb. Initially, NMFS expects the reduction in commercial landings to increase the average ex-vessel price of gag from $6.10 per lb to $7.78 per lb, or by $1.68 per lb, in 2024. However, NMFS expects the increase in ex-vessel price to gradually decrease through 2028 as the quota and landings increase, with an ex-vessel price of $6.96 in 2028. The increase in the ex-vessel price would partially offset the adverse effects of the landings reduction. Based the above information, NMFS expects a reduction in annual ex-vessel revenue for gag on average of approximately $1.57 million or about $3,451 on average per commercial fishing business. Given an average annual allocation price of $1.03 per lb for gag from 2017 to 2021, NMFS expects the reduction in commercial landings of gag to reduce economic profits to these commercial fishing businesses by about $288,813, or by approximately $635 per commercial fishing business. Thus, NMFS expects economic profits to be reduced by around 1 percent on average per commercial fishing business as a result of the proposed action to change the sector allocation and implement a rebuilding plan that reduces the stock ACL.

The proposed action that would set the commercial ACT equal to 95 percent of the commercial ACL and set commercial quota equal to the commercial ACT would cause the commercial quota to be equal to 95 percent of the commercial ACL as opposed to approximately 77 percent of the commercial ACL as is presently the case. As such, this action is expected to increase the commercial quota relative to what it would be otherwise. The increase would still yield commercial quotas below the recent average commercial landings and thus NMFS assumes all of the expected increase in the quota will be harvested.

Specifically, NMFS expects the average annual increase in the commercial quota and landings from 2024 through 2028 to be about 48,527 lb, which would increase average annual revenue by $267,371, or by about $588 per commercial fishing business. Again, assuming an average annual allocation price of $1.03 per lb, NMFS expects average increase in economic profit to commercial fishing businesses per year is $49,983, or about $110 per commercial fishing business.

Combining these expected increases in revenue and profits with the decreases discussed earlier, NMFS expects this proposed rule to decrease average revenue for commercial fishing businesses by about $1.31 million per year from 2024 through 2028, or by $2,868 per commercial fishing business. The total reduction in economic profit for commercial fishing businesses is expected to be $238,830, or $525 per commercial fishing business, which represents a decrease of about 0.8 percent.

According to the most recent estimates of economic returns in the for-hire sector, average annual economic profits are $27,948 per charter vessel. The proposed rule to change the sector allocation and implement a rebuilding plan, which would change the stock ACL, would change the gag recreational ACL from its current value of 1.903 million lb (863,186 kg). Specifically, the average recreational ACL for gag would be 510,000 lb from 2024 through 2028 under the proposed action. As explained previously, these ACLs are not directly comparable because they are based, in part, on recreational landings estimates derived from different surveys (MRIP–FES and SRFS). However, average recreational landings from 2017 to 2021 were approximately 1.265 million lb (573,884 kg). Given that average recreational landings have been considerably greater than the proposed recreational ACT, all of the proposed recreational ACT is expected to be harvested in the future. NMFS expects the reduction in the recreational ACT to reduce the recreational season length from 214 days to 25 days in 2024. However, the season length is expected to steadily increase to 120 days by 2028 and the average season length from 2024 to 2028 is expected to be 64 days. The reduction in the season length would reduce the number of angler trips targeting gag on charter vessels. From 2024 through 2028, the average reduction in angler trips targeting gag on charter vessels is expected to be 20,976 trips per year. Net Cash Flow per Angler Trip (CFpA) is the best available estimate of profit per angler trip by charter vessels. According to a recent study (available from NMFS see **ADDRESSES**), CFpA on charter vessels is estimated to be $150 per angler trip. Thus, NMFS estimates a reduction in charter vessel profits from this action of $3.146 million per year, which results in a reduction in charter vessels' profits per vessel to be $5,960 per year, or about 21.3 percent on average per for-hire fishing business.

In combination with the proposed action to require NMFS to close the recreational season based on when the recreational ACT is projected to be met, rather than the recreational ACL, the proposed action to increase the buffer between the recreational ACL and recreational ACT from 10.25 to 20 percent would be expected to reduce the recreational season length further from the proposed action to change the sector

allocation and implement a rebuilding plan. Specifically, the season length is expected to be further reduced by 2 days in 2024 (open for 23 days instead of 25), but this reduction is expected to gradually increase to 24 days by 2028 (open for 96 days instead of 120). The average additional reduction in the recreational season length is expected to be 12 days (open for 52 days instead of 64). Again, a reduction in the season length is expected to reduce the number of angler trips targeting gag on charter vessels. From 2024 through 2028, the average reduction in angler trips targeting gag on charter vessels is expected to be 2,125 trips per year. Based on an estimate of $150 in economic profit per angler trip, NMFS estimates a reduction in charter vessel profits from this action of $318,690 per year, and a reduction in the annual charter vessels' profits of $604 per vessel, or about 2.2 percent on average per for-hire fishing business.

The proposed action that would change the recreational season start date from June 1 to September 1 is expected to increase the recreational season length from 23 days to 59 days in 2024, and from 52 to 81 days on average from 2024 to 2028. However, because there are many fewer charter trips targeting gag in the fall months (September through December) compared to the summer months (June through August), this proposed action is expected to further decrease the number of angler trips targeting gag on charter vessels. Although the reduction in trips from 2024 through 2028 varies slightly from year to year, the average reduction per year is 1,610 trips. Based on an estimate of $150 in economic profit per angler trip, NMFS expects this proposed action to decrease economic profits for charter vessels by about $241,500 per year, or by $456 per charter vessel. This would result in a decrease economic profits by around 1.6 percent on average per for-hire fishing business.

Based on the above, NMFS expects the total reduction in target trips by charter vessels per year as a result of this proposed rule to be 24,711 trips. NMFS expects this reduction in trips to result in a total reduction in economic profits for charter vessels per year to be about $3.707 million, or approximately $7,020 per charter vessel. Thus, annual economic profits are expected to be reduced by approximately 25.1 percent on average per for-hire fishing business.

Six alternatives, including the status quo, were considered for the proposed actions to change the sector allocation of the stock ACL to 35 percent to the commercial sector and 65 percent to the recreational sector, establish a rebuilding plan of 18 years based on the amount of time the stock is expected to take to rebuild if fished at the yield from fishing at 75 percent of $F_{40\%SPR}$, and change the catch levels for 2024 through 2028 as specified in Table 1. The status quo alternative would have retained the current sector allocation of the stock ACL of 39 percent to the commercial sector and 61 percent to the recreational sector based on MRIP–CHTS recreational landings data. The status quo alternative would not have established a rebuilding plan or modified any of the catch limits based on MRIP–FES and SRFS landings estimates. This alternative was not selected because the sector allocation would have been based in part on MRFSS recreational landings estimates, which is no longer consistent with the best scientific information available and would result in a de facto reallocation to the commercial sector of approximately 4 percent, which the Council did not consider to be equitable. This alternative also would not have rebuilt the gag stock or ended overfishing as required by the Magnuson-Stevens Act.

A second alternative would have also retained the current sector allocation of the stock ACL of 39 percent to the commercial sector and 61 percent to the recreational sector, but would have established a rebuilding plan of 11 years assuming a fishing mortality rate of zero. This alternative would have revised the OFL based on the projections from the SEDAR 72 SRFS Run and would have set all of the other catch levels through 2028 at zero. However, as with the status quo alternative, the sector allocation would have been based in part on MRFSS recreational landings data. Further, prohibiting harvest of gag would not be expected to eliminate all fishing mortality, as some gag would still be expected to be discarded and die as fishermen continue fishing for other species that live in similar habitats as gag. This alternative was not selected because, as discussed above, MRFSS is not consistent with the best scientific information available, and would result in a de facto reallocation from the recreational to the commercial sector of approximately 4 percent, which the Council did not considerable to be equitable. Further, because it is not feasible to eliminate dead discards of gag when fishermen are targeting other species, it is unlikely the stock would actually be rebuilt in 11 years. This alternative would have also resulted in significantly larger adverse economic effects on commercial and for-hire fishing businesses compared to the proposed action.

A third alternative would have also retained the current sector allocation of the stock ACL of 39 percent to the commercial sector and 61 percent to the recreational sector. But, like the proposed action, the third alternative would have established a rebuilding plan of 18 years and changed the catch levels based on the projections from the SEDAR 72 SRFS Run. This alternative would have ended overfishing and rebuilt the stock in 18 years. But, as with the status quo and the second alternative, the sector allocation of the stock ACL would be based on MRFSS recreational landings data. Thus, this alternative was not selected because MRFSS is not the best scientific information available, and would result in a de facto reallocation from the recreational sector to the commercial sector of approximately 4 percent.

A fourth alternative would have also retained the current sector allocation of the stock ACL of 39 percent to the commercial sector and 61 percent to the recreational sector, but would have established a rebuilding plan of 22 years and changed the catch limits based on the projections from the SEDAR 72 SRFS Run. This alternative would have ended overfishing and rebuilt the stock while allowing greater harvest and resulting in smaller adverse economic effects on commercial and for-hire fishing businesses compared to the proposed action. However, it was not selected because the stock is expected to take 4 more years to rebuild compared to the proposed action, and the Magnuson-Stevens Act requires overfished stocks to be rebuilt in as short a time period as possible, taking into account various factors. This alternative was also not selected because the use of MRFSS recreational landings data is not consistent with the best scientific information available, and would result in a de facto reallocation to the commercial sector of approximately 4 percent.

Like the proposed action, a fifth alternative would have changed the sector allocation of the stock ACL to 35 percent to the commercial sector and 65 percent to the recreational sector based in part on recreational landings estimates from MRIP–FES, SRHS, and SRFS for 1986–2005. As with the second alternative, the fifth alternative would have also established a rebuilding plan of 11 years assuming a fishing mortality rate of zero and used SEDAR 72 SRFS Run projections to change the OFL. The other catch limits would have been set at zero. As discussed earlier, prohibiting harvest of

gag would not be expected to eliminate all fishing mortality, as some gag would still be expected to be discarded and die as fishermen continue fishing for other species that live in similar habitats as gag. This alternative was not selected because it is not feasible to eliminate dead discards of gag when fishermen are targeting other species, and therefore it is unlikely the stock would rebuild in 11 years. This alternative would have also resulted in significantly larger adverse economic effects on commercial and for-hire fishing businesses compared to the proposed action.

Like the proposed action, a sixth alternative would have changed the sector allocation of the stock ACL to 35 percent to the commercial sector and 65 percent to the recreational sector based in part on recreational landings estimates from MRIP–FES, SRHS, and SRFS data for 1986–2005. However, this alternative would have also established a rebuilding plan of 22 years. This alternative would be based on the best scientific information available, end overfishing, and rebuild the stock. This alternative would have also resulted in higher catch limits and therefore resulted in small adverse economic effects on commercial and for-hire fishing businesses compared to the proposed action. However, this alternative was not selected because it is expected to take 4 more years to rebuild compared to the proposed action, and the Magnuson-Stevens Act requires overfished stocks to be rebuilt in as short a time as possible, taking into account various factors.

Two alternatives, including the status quo, were considered for the proposed action to increase the buffer between the recreational ACL and recreational ACT from 10.25 to 20 percent. The status quo alternative would have maintained the buffer between the recreational ACL and recreational ACT at 10.25 percent based the yield at 75 percent of F_{MAX}. However, as explained previously, use of F_{MAX} as a proxy for F_{MSY} is not consistent with the best scientific information available.

The second alternative would have revised the recreational ACT using the Council's ACL/ACT Control Rule based on recreational landings data from 2018 through 2021. This alternative would have resulted in a 10 percent buffer between the recreational ACL and ACT, which would have left the buffer essentially unchanged. This alternative was not selected because the Council concluded it was necessary to increase the buffer between the ACL and ACT to reduce the probability of the recreational sector exceeding its ACL, reduce the likelihood of overfishing, and reduce the level of discards associated with directed harvest, which together are expected to increase the probability of meeting the 18-year timeline for rebuilding the gag stock.

Two alternatives, including the status quo, were considered for the proposed action to set the commercial ACT equal to 95 percent of the commercial ACL and set commercial quota equal to the commercial ACT. The status quo alternative would have maintained commercial ACT, which is based on the yield at 75 percent of F_{MAX}, and a commercial quota set at 86 percent of the commercial ACT. This alternative was not selected because it is based on F_{MAX}, which is no longer consistent with the best scientific information available.

The second alternative would have set the commercial ACT equal to 86 percent of the commercial ACL and, like the proposed action, set the commercial quota equal to the commercial ACT. This alternative was not selected because the Council determined that a 14 percent buffer between the commercial ACL and ACT is too high and unnecessarily limits commercial harvest due to reduced uncertainty in the estimates of commercial landings and discards.

Three alternatives, including the status quo, were considered for the proposed action to change the recreational season start date from June 1 to September 1 and require NMFS to close the recreational season based on when the recreational ACT is projected to be met rather than the recreational ACL. The status quo alternative would have maintained the recreational season start date of June 1 and required NMFS to close the recreational season based on when the recreational ACL is projected to be met. This alternative was not selected mainly because it would have resulted in a shorter average recreational season length (75 days) compared to the proposed action (81 days) for 2024 through 2028. In general, a longer fishing season would result in more fishing opportunities for both the private and for-hire components of the recreational sector. Further, shifting fishing effort to a historically low-effort month (September) may reduce the overall magnitude of recreational discards compared to starting the season in June. Shifting fishing pressure to the fall would also be expected to reduce directed effort for gag in deeper waters, which may further reduce the probability of harvesting or discarding dead male gag.

The second alternative would have retained the June 1 start date for the recreational season. But, like the proposed action, this alternative would have required NMFS to close the recreational season based on when the recreational ACT is projected to be met. This alternative was not selected mainly because it would have resulted in a shorter average recreational season length (52 days) compared to the proposed action (81 days) for 2024 through 2028. In general, a longer fishing season would result in more fishing opportunities for both the private recreational and for-hire components of the fishery. Further, shifting fishing effort to a historically low-effort month (September) may reduce the overall magnitude of recreational discards compared to starting the season in June. Shifting fishing pressure to the fall would be expected to reduce directed effort for gag in deeper waters, which may further reduce the probability of harvesting or discarding dead male gag.

The third alternative would have changed the recreational season start date to October 1. But, like the proposed action, this alternative would have required NMFS to close the recreational season based on when the recreational ACT is projected to be met. This alternative was not selected because it would have resulted in a shorter average recreational season length (63 days) compared to the proposed action (81 days) for 2024 through 2028 and would have also resulted in greater adverse effects to for-hire fishing businesses. In general, a longer fishing season would be expected to result in more fishing opportunities for both the private and for-hire components of the recreational sector.

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

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Gag, Gulf of Mexico.

Dated: November 1, 2023.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 622 as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.8, revise paragraph (c) to read as follows:

§ 622.8 Quotas—general.

* * * * *

(c) *Reopening.* When a species, species group, sector, or sector component has been closed based on a projection of the applicable catch limit (ACL, ACT, or quota) specified in this part being reached and subsequent data indicate that the catch limit was not reached, the Assistant Administrator may file a notification with the Office of the Federal Register. Such notification may reopen the species, species group, sector, or sector component to provide an opportunity for the catch limit to be harvested.

■ 3. In § 622.34, revise paragraph (e) to read as follows:

§ 622.34 Seasonal and area closures designed to protect Gulf reef fish.

* * * * *

(e) *Seasonal closure of the recreational sector for gag.* The recreational harvest of gag in or from the Gulf EEZ is closed from January 1 through August 31. During the closure, the bag and possession limits for gag in or from the Gulf EEZ are zero.

* * * * *

■ 4. In § 622.39, revise paragraph (a)(1)(iii)(B) to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(1) * * *

(iii) * * *

(B) *Gag.* See Table 1.

TABLE 1 TO PARAGRAPH (a)(1)(iii)(B)

Year	Commercial quota in lb (kg)
2024	147,000 (66,678)
2025	204,000 (92,533)
2026	255,000 (115,666)
2027	313,000 (141,974)
2028	383,000 (173,726)

* * * * *

■ 5. In § 622.41, revise paragraph (d) to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(d) *Gag*—(1) *Commercial sector.* See Table 1 for the commercial ACLs in gutted weight. The commercial ACT for gag is equal to the applicable commercial quota specified in § 622.39(a)(1)(iii)(B). The IFQ program for groupers and tilefishes in the Gulf of Mexico in § 622.22 serves as the accountability measure for the commercial harvest of gag.

TABLE 1 TO PARAGRAPH (d)(1)

Year	Commercial ACL in lb (kg)
2024	155,000 (70,307)
2025	215,000 (97,522)
2026	269,000 (122,016)
2027	330,000 (149,685)
2028	404,000 (183,251)

(2) *Recreational sector.*

(i) See Table 1 for the recreational ACLs and ACTs in gutted weight.

TABLE 1 TO PARAGRAPH (d)(2)(i)

Year	Recreational ACL in lb (kg)	Recreational ACT in lb (kg)
2024	288,000 (130,635)	230,000 (104,326)
2025	399,000 (180,983)	319,000 (144,696)
2026	499,000 (226,343)	399,000 (180,983)
2027	613,000 (278,052)	490,000 (222,260)
2028	751,000 (340,648)	600,000 (272,155)

(ii) If the NMFS SRD estimates that gag recreational landings have reached or are projected to reach the applicable recreational ACT specified in paragraph (d)(2)(i) of this section, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year. On and after the effective date of such a notification, the bag and possession limits for gag in or from the Gulf EEZ are zero. These bag and possession limits apply in the Gulf on board a vessel for which a valid Federal charter vessel/headboat permit for Gulf reef fish has been issued without regard to where such species were harvested, *i.e.,* in state or Federal waters.

(iii) In addition to the measures specified in paragraph (d)(2)(ii) of this section, if the NMFS SRD estimates that gag recreational landings have exceeded the applicable ACL specified in paragraph (d)(2)(i) of this section and gag is overfished based on the most recent Status of U.S. Fisheries Report to Congress, the following measure will apply. The AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year, to reduce the ACL for that following year by the amount of the ACL overage in the prior fishing year, unless the best scientific information available determines that a greater, lesser, or no overage adjustment is necessary.

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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

Agricultural Marketing Service

[Doc. No. AMS–SC–23–0073]

Request for Information Specialty Crops Competitiveness Initiative

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

ACTION: Request for information.

SUMMARY: The U.S. Department of Agriculture (USDA) is seeking input from stakeholders across the specialty crops industry on how USDA may better administratively support the industry in remaining competitive in domestic and international marketplaces, as part of USDA's Specialty Crops Competitiveness Initiative. This input will strengthen USDA's partnership with the specialty crops industry, an agricultural sector that has faced significant challenges due to recent natural disasters, pandemic-related market disruptions, and other factors. USDA requests input on how to further support the industry's domestic marketing and consumption, to further support the industry's competitiveness internationally, to further support research that will serve the industry, to increase producers' awareness of and access to relevant USDA programs, to enhance USDA programs that serve the specialty crops industry, to aid the evaluation of existing programs, and to understand current and future challenges faced by the industry. USDA is asking for comments on interactions with USDA programs. All comments will be aggregated, summarized, and shared with USDA Leadership.

DATES: Comments must be received by March 8, 2024 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this notice by either of the following methods:

- *Federal Rulemaking Portal:* Go to *https://www.regulations.gov* and search for Docket ID AMS–SC–23–0073. Follow the instructions for submitting comments. Comments should reference the document number and the date and page number of this issue of the **Federal Register**.
- *Email:* Please submit any email responses to *SCCIPartners@usda.gov* in the body of an email or as a Word or PDF attachment. Include ''SCCI RFI'' in the subject line of the email.

All comments submitted in response to this notice will be included in the record, will be made available to the public, and can be viewed at: *https://www.regulations.gov.* Please be advised that the identity of the individuals or entities submitting the comments will be made available to the public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Heather M. Pichelman, Agricultural Marketing Service, Specialty Crops Program, Email: *heather.pichelman@usda.gov* or Telephone: (202) 720–4722.

SUPPLEMENTARY INFORMATION: USDA has heard growing concern from the specialty crops industry regarding their ability to remain competitive. Although the specialty crops industry includes a wide array of commodities, the challenges facing their markets are similar. USDA is actively partnering with specialty crops growers to increase the competitiveness of U.S. products in domestic and international markets, minimize costs, manage pests and diseases, strengthen supply chains, and support climate outcomes.

In direct response to the industry's request for support, USDA launched the Specialty Crops Competitiveness Initiative (SCCI). The goal of SCCI is to provide increased support to the specialty crops industry by identifying industry needs and taking appropriate available administrative action.

This Request for Information (RFI) is part of the SCCI initiative, to provide stakeholders the opportunity to submit feedback on the industry's needs and to provide information on how USDA can better administratively support the U.S. specialty crops industry to remain competitive.

The SCCI is just one of multiple efforts across the Federal government to support the industry. On October 17, 2023, the United States Trade Representative (USTR) published in the **Federal Register**, the ''Notice of Establishment and Request for Nominations for the Seasonal and Perishable Agricultural Products Advisory Committee'' (88 FR 71638). This Committee, established by USTR and USDA, intends to provide advice and recommendations in connection with U.S. trade policy that concern administrative actions and legislation that would promote the competitiveness of Southeastern U.S. producers of seasonal and perishable agricultural products. Whereas this Committee will be focused on a specific geographic U.S. region and on seasonal and perishable fruits and vegetables, the SCCI will have a nationwide focus on the needs of all specialty crops stakeholders to remain competitive in both domestic and international markets under USDA's purview.

Interested persons can refer to the new USDA web page at *https://www.usda.gov/specialty.crops,* which contains a comprehensive snapshot of USDA's resources and services relevant to specialty crops producers and businesses. The focus of this request is to collect feedback on existing USDA programs and how they might be improved, not on new programs that require legislative action to implement.

Upon collection of feedback from the industry through this RFI and stakeholder meetings and events, a gap analysis will be conducted to address where USDA services can be enhanced to better support the specialty crops industry. Outcomes of the feedback will be communicated back to the specialty crops industry to continue to build awareness of USDA's support for the industry.

USDA is seeking feedback on all its services for the industry. Respondents may provide information for one or more of the questions or topics listed below, as desired. Additionally, respondents may provide commodity-specific or geographic-specific input on Department services for specialty crops.

How can USDA administratively support specialty crop producers to enhance domestic marketing and increase consumption of domestically grown specialty crops?

How can USDA administratively support specialty crop producers to improve their export performance to

increase competitiveness of U.S. specialty crops in foreign markets?

What research is needed to minimize costs and maximize returns to support the production and processing of specialty crops? What kind of research (spanning production, transportation, handling, or beyond) could USDA enhance or adapt to support the specialty crop industry?

How could existing USDA specialty crops farm programs be adapted to address current and future challenges faced by the specialty crops industry?

How could USDA increase awareness of available tools and resources to support broader participation and engagement by the specialty crops industry?

How could USDA enhance or adapt currently offered programs (loans, grants, nutrition programs, conservation programs, insurance programs, food safety programs, pest management programs, etc.) to support the specialty crops industry to increase its competitiveness?

How could USDA enhance or adapt procurement to support the specialty crops industry?

Please share any ongoing or anticipated challenges in the specialty crops industry that impact your ability to maintain competitiveness.

Please share any non-financial resources that would be useful to improve the specialty crop industry's competitiveness.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2023–24715 Filed 11–8–23; 8:45 am]

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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 December 11, 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.

Rural Housing Service

Title: Rural Rental Housing Program, 7 CFR part 3560.

OMB Control Number: 0575–0189.

Summary of Collection: The Rural Housing Service is revising this information collection to include a new form. The new form titled ''Replacement Reserve Intercreditor Agreement'' (ICA) is a supplement to the existing section 515 Subordination Agreement. The ICA form will be used between the section 515 RRH Borrower/Owner and the section 538 Lender to establish control and guidance on how the Reserve Account will be handled in a joint transaction. The ICA will add an additional 24 responses and 4 hours to the collection's total burden.

Need and Use of the Information: Information is completed by developers and potential borrowers seeking approval of rural rental housing loans with the assistance of professionals such as attorneys, architects, and contractors and the operation and management of the MFH properties in an affordable decent, safe and sanitary manner. The forms and information provide the basis for making determinations of eligibility and the need and feasibility of the proposed housing.

The information provides the basis for determining that rents charged are appropriate, the housing is well-maintained, and proper priority is given to those tenants eligible for occupancy. Information is collected to assure compliance with the terms and conditions of loan, grant and/or subsidy agreements.

Description of Respondents: Business or other for profit; Not-for-profit institutions.

Number of Respondents: 589,500.

Frequency of Responses: Recordkeeping; Reporting: On Occasion, Annually.

Total Burden Hours: 1,072,246.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–24792 Filed 11–8–23; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request; Reinstatement

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and reinstatement 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 these information collections are best assured of having their full effect if received by December 11, 2023. 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.

Agricultural Marketing Service

Title: Federal Seed Act Program.

OMB Control Number: 0581–0026.

Summary of Collection: The Federal Seed Act (FSA) (7 U.S.C. 1551–1611) regulates agricultural and vegetable seeds in interstate commerce. Fresh apples and grapes grown in the United States shipped to designated foreign destination must meet minimum quality and other requirements established by regulations issued under the Export Apple Act (7 U.S.C. 581–590) and the Export Grape and Plum Act (7 U.S.C. 591–599) (Acts) in 7 CFR parts 33 and 35, respectively. Regulations for plum exports have not been in effect since 1991.

The U.S. Department of Agriculture's (USDA) issues regulations that cover exports of U.S. fresh apples and grapes shipped to foreign destinations, except for grapes shipped to Canada or Mexico and apples in bulk bins shipped to Canada. Certain limited quantity provisions may exempt some shipments from this information collection. Regulations issued under the Acts (7 CFR 33.11 for apples and § 35.12 for grapes) require that USDA inspect and certify that each export shipment of fresh apples and grapes complies with quality and shipping requirements effective under the Acts.

Need and Use of the Information: The information in this collection is the minimum information necessary to effectively carry out the enforcement of FSA. With the exception of the requirements for entering a new variety into a State seed certification program (set forth separately below), the information collection is entirely recordkeeping rather than reporting. The FSA program would be ineffective without the ability to examine pertinent records as necessary to resolve complaints of violations.

Description of Respondents: Business or other for-profit; Farm.

Number of Respondents: 3,484.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 97,847.

Agricultural Marketing Service

Title: Export Fruit Regulations—Export Apple Act (7 CFR part 33) and Export Grape and Plum Act (7 CFR part 35).

OMB Control Number: 0581–0143.

Summary of Collection: Fresh apples and grapes grown in the United States shipped to designated foreign destination must meet minimum quality and other requirements established by regulations issued under the Export Apple Act (7 U.S.C. 581–590) and the Export Grape and Plum Act (7 U.S.C. 591–599) (Acts) in 7 CFR parts 33 and 35, respectively. Regulations for plum exports have not been in effect since 1991. The U.S. Department of Agriculture's (USDA) issues regulations that cover exports of U.S. fresh apples and grapes shipped to foreign destinations, except for grapes shipped to Canada or Mexico and apples in bulk bins shipped to Canada. Certain limited quantity provisions may exempt some shipments from this information collection. Regulations issued under the Acts (7 CFR 33.11 for apples and § 35.12 for grapes) require that USDA inspect and certify that each export shipment of fresh apples and grapes complies with quality and shipping requirements effective under the Acts.

Need and Use of the Information: The information collection requirements in this request are essential to carry out the intent and administration of the Acts. The currently approved collection under OMB No. 0581–0143 authorizes the use of an Export Form Certificate (SC–205). Federal or Federal-State Inspection Program (FSIP) inspectors use the Export Form Certificate to certify inspection of the shipment for exports bound for non-Canadian destinations. Procedures require shippers to maintain and provide, upon USDA's request, a paper or electronic copy of the SC–205 when needed for USDA to monitor compliance with regulations. Based on procedures amended in 2016 and approved by OMB for information collection purposes, carriers, which transport goods on behalf of shippers, are no longer required to maintain a copy of the SC–205.

Description of Respondents: Business or other for-profit.

Number of Respondents: 200.

Frequency of Responses: Recordkeeping; Reporting; Annually.

Total Burden Hours: 9,750.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2023–24842 Filed 11–8–23; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2023–0079]

Spotted Lanternfly Cooperative Control Program; Availability of a Programmatic Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a programmatic environmental assessment relative to the Spotted Lanternfly Cooperative Control Program in the conterminous United States. The environmental assessment documents our review and analysis of environmental impacts associated with the Spotted Lanternfly Cooperative Control Program. We are making the programmatic environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive on or before December 11, 2023.

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

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2023–0079 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2023–0079, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *regulations.gov* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew Travis, Spotted Lanternfly National Policy Manager, PPQ, APHIS, Emergency and Domestic Programs, 4700 River Road Unit 133, Riverdale, MD 20737–1238; email: *Matthew.A.Travis@usda.gov.*

SUPPLEMENTARY INFORMATION: The spotted lanternfly (SLF), *Lycorma*

delicatula, an invasive species native to Asia, is a destructive pest that in large numbers can cause significant damage to critical habitat and economically important plants. The U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS) is proposing to control SLF, to slow the spread of this invasive insect in the conterminous United States, wherever outbreaks are detected.

SLF was first detected in the United States in 2014 in Pennsylvania. In 2015, APHIS implemented SLF control activities to respond to this new pest threat. Later, in 2019, APHIS started an official SLF program. SLF is a significant economic and lifestyle pest for residents, businesses, tourism, forestry, and agriculture.

SLF infestation has led to crop loss, agriculture exportation problems, and increased management costs. APHIS is concerned by the potential for long-distance movement of SLF within the United States, and by the continued risk of SLF introduction from other countries. The environmental and socioeconomic damage to SLF-affected regions can be substantial. For context, grape vineyards in South Korea and the United States appear to be particularly affected, jeopardizing an industry worth billions of dollars. One vineyard in the United States reportedly faced a crop yield loss of up to 90 percent. An uncontained SLF infestation could drain Pennsylvania's economy of at least $324 million annually.

While SLF has not yet been found in western United States, it has been intercepted in airplanes arriving from the eastern United States. Suitable conditions for SLF establishment exist in large regions of the United States, giving the insect the potential to damage valuable host crops, forests, and critical habitat for listed species. APHIS' review and analysis of potential environmental impacts associated with the Spotted Lanternfly Cooperative Control Program are documented in a programmatic environmental assessment (ProEA) titled ''Spotted Lanternfly Cooperative Control Program for the Conterminous United States'' (June 2023). The ProEA incorporates by reference, the analysis in ''*Expanded Spotted Lanternfly Control Program in Select States in the Midwest, Northeast, and Mid-Atlantic Regions of the United States EA*''.[1] In our analysis, APHIS found that an adaptive pest management approach that combines quarantine, chemical treatments, and pest survey is the preferred alternative to address the potential environmental impact of a SLF outbreak.

The ProEA may be viewed on the *regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *regulations.gov* and information on the location and hours of the reading room). You may also request paper copies of the ProEA by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the ProEA when requesting copies.

The ProEA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 31st day of October 2023.

Michael Watson,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2023–24752 Filed 11–8–23; 8:45 am]

BILLING CODE 3410–34–P

[1] *https://www.aphis.usda.gov/plant_health/ea/2023/regional-slf-2023-ea.pdf.*

DEPARTMENT OF AGRICULTURE

U.S. Codex Office

Codex Alimentarius Commission: Meeting of the Codex Committee on Spices and Culinary Herbs

AGENCY: U.S. Codex Office, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The U.S. Codex Office is sponsoring a public meeting on December 6, 2023. The objective of the public meeting is to provide information and receive public comments on agenda items and draft U.S. positions to be discussed at the 7th Session of the Codex Committee on Spices and Culinary Herbs (CCSCH) of the Codex Alimentarius Commission (CAC). CCSCH7 will be held in Kochi, Kerala, India, from January 29–February 2, 2024. The U.S. Manager for Codex Alimentarius and the Under Secretary for Trade and Foreign Agricultural Affairs recognize the importance of providing interested parties the opportunity to obtain background information on the 7th Session of the CCSCH and to address items on the agenda.

DATES: The public meeting is scheduled for December 6, 2023, from 1:00–2:30 p.m. EDT.

ADDRESSES: The public meeting will take place via Video Teleconference only. Documents related to the 7th Session of the CCSCH will be accessible via the internet at the following address: *https://www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CCSCH&session=7.*

Mr. Dorian LaFond, U.S. Delegate to the 7th Session of the CCSCH, invites interested U.S. parties to submit their comments electronically to the following email address: *dorian.lafond@usda.gov.*

Registration: Attendees may register to attend the public meeting here: *https://www.zoomgov.com/meeting/register/vJItcuyqrDgsEpm1ar9sahLeoFTqCPXeXig.* After registering, you will receive a confirmation email containing information about joining the meeting.

For further information about the 7th Session of the CCSCH, contact U.S. Delegate, Mr. Dorian LaFond, Agricultural Marketing Service, U.S. Department of Agriculture, *dorian.lafond@usda.gov,* (202) 690–4944. For an additional contact regarding the public meeting, contact the U.S. Codex Office by email at: *uscodex@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission was established in 1963 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to protect the health of consumers and ensure fair practices in the food trade.

The Terms of Reference of the Codex Committee on Spices and Culinary Herbs (CCSCH) are:

(a) To elaborate worldwide standards for spices and culinary herbs in their dried and dehydrated state in whole, ground, and cracked or crushed form;

(b) To consult, as necessary, with other international organizations in the standards development process to avoid duplication.

The CCSCH is hosted by India. The United States attends the CCSCH as a member country of Codex.

Issues To Be Discussed at the Public Meeting

The following items from the forthcoming Agenda for the 7th Session of the CCSCH will be discussed during the public meeting:

- Matters referred to the Committee by the Codex Alimentarius Commission and/or its subsidiary bodies
- Draft standard for small cardamom
- Draft standard for spices in the form of dried fruits and berries: Part A—Requirements for allspice, juniper berry, star anise
- Proposed draft standard for spices in the form of dried fruits and berries: Part B—Requirements for vanilla
- Proposed draft standard for turmeric
- Consideration of the proposals for new work
- Update to the template for spices and culinary herbs standards
- Date and place of the next session

Public Meeting

At the December 6, 2023, public meeting, draft U.S. positions on the agenda items will be described and discussed, and attendees will have the opportunity to pose questions and offer comments. Written comments may be offered at the meeting or sent to Mr. Dorian LaFond, U.S. Delegate for the 7th Session of the CCSCH, at *dorian.lafond@usda.gov.* Written comments should state that they relate to activities of the 7th Session of the CCSCH.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, the U.S. Codex Office will announce this **Federal Register** publication on-line through the USDA Codex web page located at: *http://www.usda.gov/codex,* a link that also offers an email subscription service providing access to information related to Codex. Customers can add or delete their subscriptions themselves and have the option to password protect their accounts.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

How To File a Complaint of Discrimination

To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *https://www.usda.gov/oascr/filing-program-discrimination-complaint-usda-customer,* or write a letter signed by you or your authorized representative. Send your completed complaint form or letter to USDA by mail, fax, or email. Mail: U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW, Washington, DC 20250–9410; Fax: (202) 690–7442; Email: *program.intake@usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Done at Washington, DC, on November 3, 2023.

Mary Frances Lowe,

U.S. Manager for Codex Alimentarius.

[FR Doc. 2023–24773 Filed 11–8–23; 8:45 am]

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–44–2023]

Foreign-Trade Zone (FTZ) 49; Authorization of Production Activity; Getinge Group Logistics Americas LLC; (Care Products and Kits); Dayton, New Jersey

On July 7, 2023, Getinge Group Logistics Americas LLC submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 49W in Dayton, New Jersey.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (88 FR 44779, July 13, 2023). On November 6, 2023, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: November 6, 2023.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2023–24822 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–45–2023]

Foreign-Trade Zone (FTZ) 107; Authorization of Production Activity; Lely North America, Inc.; (Automated Milking and Feeding Equipment); Pella, Iowa

On July 7, 2023, Lely North America, Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 107E in Pella, Iowa.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (88 FR 45390, July 17, 2023). On November 6, 2023, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including section 400.14.

Dated: November 6, 2023.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2023–24821 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–170–2023]

Approval of Subzone Expansion; Getinge Group Logistics Americas LLC; East Windsor, New Jersey

On September 1, 2023, the Executive Secretary of the Foreign-Trade Zones (FTZ) Board docketed an application submitted by the Port Authority of New York and New Jersey, grantee of FTZ 49, requesting to expand Subzone 49W subject to the existing activation limit of FTZ 49, on behalf of Getinge Group Logistics Americas LLC, in East Windsor, New Jersey.

The application was processed in accordance with the FTZ Act and Regulations, including notice in the **Federal Register** inviting public comment (88 FR 61499, September 7, 2023). The FTZ staff examiner reviewed the application and determined that it meets the criteria for approval. Pursuant to the authority delegated to the FTZ Board Executive Secretary (15 CFR 400.36(f)), the application to expand Subzone 49W was approved on November 6, 2023, subject to the FTZ

Act and the Board's regulations, including section 400.13, and further subject to FTZ 49's 2,000-acre activation limit.

Dated: November 6, 2023.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2023–24824 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–937]

Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that RZBC Group Co., Ltd., RZBC Co., Ltd., RZBC Import & Export Co., Ltd., and RZBC (Juxian) Co., Ltd. (collectively, RZBC) did not make sales of citric acid and certain citrate salts (citric acid) from the People's Republic of China (China) at less than normal value during the period of review (POR) May 1, 2021, through April 30, 2022.

DATES: Applicable November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5831.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* on July 10, 2023.[1] For a discussion of events subsequent to the *Preliminary Results, see* the Issues and Decision Memorandum.[2] Commerce conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The products covered by this order are citric acid from China. A full description of the scope of the order is provided in the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised an interested party's case brief are addressed in the Issues and Decision Memorandum. A list of these issues is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our review of the record and comments received from an interested party regarding our *Preliminary Results,* we made two revisions to the margin calculation for RZBC as explained in Comments 1 and 2 of the Issues and Decision Memorandum.

Final Results of Review

Commerce determines that the following weighted-average dumping margin exists for RZBC for the period May 1, 2021, through April 30, 2022:

Exporter	Weighted-average dumping margin (percent)
RZBC	0.00

Because no party requested a review of the China-wide entity, and Commerce no longer considers the China-wide entity as an exporter conditionally subject to administrative reviews,[3] we did not conduct a review of the China-wide entity. Thus, the weighted-average dumping margin for the China-wide entity (*i.e.,* 156.87 percent) [4] is not subject to change as a result of this review.

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with these final results of review. We intend to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results. 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).

Where the respondent reported reliable entered values, Commerce will calculate importer/customer-specific *ad valorem* assessment rates by aggregating the amount of dumping calculated for all U.S. sales to the importer/customer and dividing this amount by the total entered value of the merchandise sold to the importer/customer.[5] Where an importer- (or customer-) specific assessment rate is zero or *de minimis* (*i.e.,* less than 0.50 percent), Commerce will instruct CBP to assess that importer's (or customer's) entries of subject merchandise without regard to antidumping duties in accordance with 19 CFR 351.106(c)(2). For entries that were not reported in the U.S. sales database submitted by RZBC during this review, Commerce will instruct CBP to liquidate such entries at the antidumping duty assessment rate for the China-wide entity (*i.e.,* 156.87 percent).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for RZBC the cash deposit rate will be the rate listed above; (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding in which they were reviewed; (3) for all

[1] *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2021–2022,* 88 FR 43551 (July 10, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China; 2021–2022,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65969–70 (November 4, 2013).

[4] *See Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Antidumping Duty Orders,* 74 FR 25703 (May 29, 2009).

[5] *See* 19 CFR 351.212(b)(1).

Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin for the China-wide entity (*i.e.,* 156.87 percent); and (4) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter(s) that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties has occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of countervailing duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

We are issuing and publishing these final results of administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: November 2, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–24788 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–814]

Chlorinated Isocyanurates From Spain: Final Results of Antidumping Duty Administrative Review; 2021–2022

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that sales of chlorinated isocyanurates from Spain were made as less than normal value during the period of review (POR) June 1, 2021, through May 31, 2022.

DATES: Applicable November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4261.

SUPPLEMENTARY INFORMATION:

Background

On July 7, 2023, Commerce published the preliminary results of the administrative review of the antidumping duty order on chlorinated isocyanurates (chlorinated isos) from Spain.[1] For a summary of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2] The sole mandatory respondent in this administrative review is Ercros S.A. (Ercros). The producers/exporters not selected for individual examination are listed in the ''Final Results of Review'' section of this notice.

Scope of the Order [3]

The products covered by the *Order* are chlorinated isos, which are derivatives of cyanuric acid, described as chlorinated s-triazine triones. Chlorinated isos are currently classifiable under subheadings 2933.69.6015, 2933.69.6021, 2933.69.6050, 3808.40.50, 3808.50.40 and 3808.94.5000 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes only; the written product description of the scope of the *Order* is dispositive. For a full description of the scope of the order, *see* the Issues and Decision Memorandum.

Analysis of Comments Received

Commerce addressed all issues raised in the case and rebuttal briefs in the Issues and Decision Memorandum. These issues are identified in the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our analysis of the comments received, we have made certain changes to the home market and margin calculations for Ercros since the *Preliminary Results.* Specifically, we have revised Ercros' home market program to include certain movement expenses and revised the margin program to change currency conversions for inland insurance and commissions.

Non-Individually Examined Companies

For the rate for non-selected companies in an administrative review, generally, Commerce looks to section 735(c)(5) of the Tariff Act of 1930, as amended (the Act), which provides instructions for calculating the all-others rate in a market economy investigation. Under section 735(c)(5)(A) of the Act, the all-others rate is normally ''an amount equal to the weighted average of the estimated weighted average dumping margins

[1] *See Chlorinated Isocyanurates from Spain: Preliminary Results of Antidumping Duty Administrative Review; 2021–2022,* 88 FR 43305 (July 7, 2023) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Administrative Review of the Antidumping Duty Order on Chlorinated Isocyanurates from Spain; 2021–2022,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See Chlorinated Isocyanurates from Spain: Notice of Antidumping Duty Order,* 70 FR 36562 (June 24, 2005) (*Order*).

established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely {on the basis of facts available}.'' In this segment of the proceeding, we calculated a margin for Ercros that was not zero, *de minimis,* or based entirely on facts available. Accordingly, we have applied the margin calculated for Ercros to the non-individually examined companies.

Final Results of Review

As a result of this administrative review, we determine that the following weighted-average dumping margins exist for the period June 1, 2021 through May 31, 2022.

Manufacturer/exporter	Weighted-average dumping margin (percent)
Ercros S.A	9.05
Review-Specific Rate Applicable to the Following Companies:	
Industrias Quimicas Tamar S.L	9.05
Electroquimic de Hernani, S.A	9.05

Disclosure

Commerce intends to disclose the calculations performed for Ercros in these final results to interested parties within five days of the date of publication of this notice in the **Federal Register**, in accordance with 19 CFR 351.224(b).

Assessment

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this administrative review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Where the respondent reported reliable entered values, Commerce calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).[4] Where Commerce calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to a specific importer or customer by the total sales quantity associated with those transactions, Commerce will direct CBP to assess importer- (or customer-) specific assessment rates based on the resulting per-unit rates.[5] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis* (*i.e.,* 0.50 percent), Commerce will instruct CBP to collect the appropriate duties at the time of liquidation.[6] Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis,* Commerce will instruct CBP to liquidate appropriate entries without regard to antidumping duties.[7]

In accordance with Commerce's ''automatic assessment'' practice, for entries of subject merchandise that entered the United States during the POR that were produced by Ercros for which the respondent did not know that its merchandise was destined to the United States, Commerce will instruct CBP to liquidate unreviewed entries at the all-others rate of 24.83 percent,[8] if there is no rate for the intermediate company(ies) involved in the transaction.[9] For companies identified above that were not selected for individual examination, we will instruct CBP to liquidate entries at the rates established in these final results of review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the notice of the final results of this administrative review for all shipments of chlorinated isos from Spain entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results in the **Federal Register**, as provided by section 751(a)(2)(C) of the Act: (1) for the companies covered by this review, the cash deposit rate will be the rates listed above in the section ''Final Results of Review''; (2) for merchandise exported by producers or exporters not covered in this administrative review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published in a completed segment for the most recent POR; (3) if the exporter is not a firm covered in this review or in the original investigation, but the producer is, the cash deposit rate will be the rate established for the most recently completed segment of this proceeding for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 24.83 percent, the all-others rate established in the investigation.[10] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the 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 the terms of an APO is a sanctionable violation.

Notification to Interested Parties

Commerce is issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: November 2, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[4] *See* 19 CFR 351.212(b)(1).

[5] *Id.*

[6] *Id.*

[7] *See* 19 CFR 351.106(c)(2).

[8] *See Chlorinated Isocyanurates from Spain: Notice of Final Determination of Sales at Less Than Fair Value,* 70 FR 24506 (May 10, 2005) (*Chlorinated Isos from Spain Final Determination*).

[9] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[10] *See Chlorinated Isos from Spain Final Determination.*

[FR Doc. 2023–24810 Filed 11–8–23; 8:45 am]
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DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–847]

Heavy Walled Rectangular Welded Steel Pipes and Tubes From Mexico: Notice of Court Decision Not in Harmony With the Results of Antidumping Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On July 19, 2023, the U.S. Court of International Trade (CIT) issued its final judgment in *Nucor Tubular Products Inc.* v. *United States,* Court No. 21–00543, sustaining the U.S. Department of Commerce's (Commerce) remand results pertaining to the administrative review of the antidumping duty (AD) order on heavy walled rectangular welded steel pipes and tubes (HWR pipes and tubes) from Mexico covering the period of review (POR), September 1, 2018, through August 31, 2019. Commerce is notifying the public that the CIT's final judgment is not in harmony with Commerce's final results of the administrative review and that Commerce is amending the final results with respect to the dumping margins assigned to Maquilacero S.A. de C.V. (Maquilacero) and Productos Laminados de Monterrey S.A. de C.V. (Prolamsa).

DATES: Applicable July 29, 2023.

FOR FURTHER INFORMATION CONTACT: David Crespo, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3693.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 2021, Commerce published its *Final Results.*[1] In the *Final Results,* Commerce made no changes to the *Preliminary Results* [2] and continued to rely on the same (1) home market and U.S. sales for Maquilacero's cost recovery test; and (2) currency conversion programming for Prolamsa. We found that Maquilacero and Prolamsa did not make sales of subject merchandise at less than normal value (NV) during the POR.

Nucor Tubular Products, Inc. (Nucor), *i.e.,* the domestic interested party, appealed Commerce's *Final Results.* On January 18, 2023, the CIT remanded the *Final Results* to Commerce to reconsider Nucor's ministerial error comments and reexamine (1) the placeholder numbers used to calculate Maquilacero's quarterly costs in the *Preliminary Results;* and (2) Commerce's assessment of Prolamsa's home market price calculations and correct any potential errors in its currency conversions.[3] Specifically, the CIT held that Commerce needed to reconsider the above company-specific calculations in order to address the ministerial error comments and correctly implement its quarterly cost methodology for Maquilacero, and calculate the correct NV for Prolamsa, so that Commerce meets its obligation to calculate antidumping duty rates as accurately as possible.[4] In the *Final Remand,* issued in March 2023, Commerce reconsidered the facts on the record and corrected the (1) time period of U.S. sales used in Maquilacero's home market SAS program to be based on all U.S. sales made in the POR; and (2) currency of certain variables to base Prolamsa's NV calculation on the correct currency.[5] On July 19, 2023, the CIT sustained Commerce's *Final Remand.*[6]

Timken Notice

In its decision in *Timken,*[7] as clarified by *Diamond Sawblades,*[8] the U.S. Court of Appeals for the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of court decision that is not ''in harmony'' with a Commerce determination and suspend liquidation of entries pending a ''conclusive'' court decision. The CIT's July 19, 2023, judgment constitutes a final decision of the CIT that is not in harmony with Commerce's *Final Results.* Thus, this notice is published in fulfillment of the publication requirements of *Timken.*

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to Prolamsa, Maquilacero, and the margin for non-selected companies as follows: [9]

Producer/exporter	Weighted-average dumping margin (percent)
Maquilacero S.A. de C.V	3.48
Productos Laminados de Monterrey S.A. de C.V	2.11
Arco Metal S.A. de C.V	2.51
Forza Steel S.A. de C.V	2.51
Industrias Monterrey, S.A. de C.V	2.51
Perfiles y Herrajes LM S.A. de C.V	2.51
PYTCO S.A. de C.V	2.51
Regiomontana de Perfiles y Tubos S.A. de C.V	2.51
Ternium S.A. de C.V	2.51
Tuberia Nacional, S.A. de C.V	2.51
Tuberias Procarsa S.A. de C.V	2.51

Cash Deposit Requirements

Because Maquilacero and Prolamsa each have cash deposit rates that have been superseded by a subsequent administrative review of the AD order at this time, Commerce will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rate for these two companies.

With respect to all the non-selected companies, because the cash deposit rates have not been superseded by a subsequent administrative review of the AD order at this time, Commerce intends to issue amended cash deposit instructions to CBP.

Liquidation of Suspended Entries

Because the CIT's ruling has not been appealed, in accordance with 19 CFR 351.212(b), Commerce intends to instruct CBP to assess antidumping duties on the following unliquidated entries of subject merchandise: (1)

[1] *See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico: Final Results of Antidumping Duty Administrative Review; 2018–2019,* 86 FR 41448 (August 2, 2021) (*Final Results*), and accompanying Issues and Decision Memorandum (IDM).

[2] *See Heavy Walled Rectangular Welded Carbon Steel Pipes and Tubes from Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2018–2019,* 86 FR 7067 (January 26, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[3] *See Nucor Tubular Products Inc.* v. *United States,* 619 F. Supp. 3d 1279 (CIT 2023).

[4] *Id.* at 1286–7.

[5] *See Final Results of Redetermination Pursuant to Court Remand, Nucor Tubular Products Inc.* v. *United States,* 619 F. Supp. 3d 1279 (CIT 2023), dated March 17, 2023 (*Final Remand*).

[6] *See Nucor Tubular Products Inc.* v. *United States,* Court No. 21–00543, Slip Op. 23–104 (CIT 2023).

[7] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[8] *See Diamond Sawblades Mfrs. Coal.* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[9] *See Final Remand* for details related to the margin calculations.

produced and exported by Maquilacero; (2) produced and exported by Prolamsa; and (3) produced and/or exported by the non-selected companies. Commerce intends to instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis.* Where an importer-specific *ad valorem* assessment rate is zero or *de minimis,*[10] Commerce intends to instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e) and 777(i)(1) of the Act.

Dated: November 1, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2023–24830 Filed 11–8–23; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–859]

Light-Walled Rectangular Pipe and Tube From the Republic of Korea: Final Affirmative Determination of Circumvention of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of light-walled rectangular pipe and tube (LWRPT), completed in the Socialist Republic of Vietnam (Vietnam) using hot-rolled steel (HRS) produced in the Republic of Korea (Korea), are circumventing the antidumping duty (AD) order on LWRPT from Korea.

DATES: Applicable November 9, 2023.

FOR FURTHER INFORMATION CONTACT: George McMahon or Carolyn Adie, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1167 or (202) 482–6250, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 2008, Commerce published in the **Federal Register** the AD order on LWRPT from Korea.[1] On August 4, 2022, Commerce initiated a country-wide circumvention inquiry to determine whether certain imports of LWRPT completed in Vietnam using HRS produced in Korea are circumventing the *Order.*[2] On April 12, 2023, Commerce published in the **Federal Register** its *Preliminary Determination* that imports of LWRPT completed in Vietnam using HRS produced in Korea are circumventing the *Order.*[3]

On May 15, 2023, Commerce extended the deadline for the final determination of this circumvention inquiry to August 4, 2023.[4] On July 20, 2023, Commerce further extended the deadline for the final determination to November 2, 2023.[5] For a summary of events that occurred since the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for consideration in the final determination, *see* the Issues and Decision Memorandum.[6]

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *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.*

Scope of the Order

The products covered by the *Order* include certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm. For a full description of the scope of the *Order, see* the Issues and Decision Memorandum.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers LWRPT completed in Vietnam using Korea-origin HRS, which is subsequently exported from Vietnam to the United States (inquiry merchandise).

Methodology

Commerce is conducting this circumvention inquiry in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226. *See Preliminary Determination* PDM for a full description of the methodology.[7] We have continued to apply this methodology, without exception, and incorporate by reference this description of the methodology, for our final determination.[8]

Determination of No Shipments

Based on the information provided by Vina One Steel Manufacturing Corporation (Vina One) in this circumvention inquiry, Commerce continues to find, as it did in the *Preliminary Determination,* that Vina One had no shipments of inquiry merchandise to the United States during the period of inquiry, January 1, 2017, through December 31, 2021.[9]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice at Appendix I.

Based on our analysis of the comments received from interested parties, we made no changes to the *Preliminary Determination,* except for revisions to the certification language (*see* Appendix II), which we have modified in response to comments to allow parties to also use the

[1] *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea*: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value, 73 FR 45403 (August 5, 2008) (*Order or WRPT Korea Order*).

[2] *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China; Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea*; *Certain Welded Carbon Steel Standard Pipes and Tubes from India*; *Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan*; *Certain Circular Welded Non-Alloy Steel Pipe from Taiwan*; *Light-Walled Rectangular Pipe and Tube from the People's Republic of China*; *Light-Walled Rectangular Pipe and Tube from the Republic of Korea*; *Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan*: *Initiation of Circumvention Inquiries on the Antidumping and Countervailing Duty Orders*, 87 FR 47711 (August 4, 2022), and accompanying Circumvention Initiation Memorandum.

[3] *See Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Preliminary Determination of Circumvention of the Antidumping Order,* 88 FR 22002 (April 12, 2023) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[4] *See* Memorandum, ''Extension of Deadline for Issuing Final Determinations in Circumvention Inquiries,'' dated May 15, 2023.

[5] *See* Memorandum, ''Extension of Deadline for Issuing Final Determinations in Circumvention Inquiries,'' dated July 20, 2023.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Circumvention Inquiry of the Antidumping Duty Order on Light-Walled Rectangular Pipe and Tube from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *See Preliminary Determination* PDM at 4–15.

[8] *See* Issues and Decision Memorandum at 2.

[9] *See Preliminary Determination* PDM at 11–12; *see also* Issues and Decision Memorandum at Comment 15.

[10] *See* 19 CFR 351.106(c)(2).

certifications when their shipments of LWRPT were not produced using HRS.

Final Circumvention Determination

As detailed in the Issues and Decision Memorandum, Commerce determines that LWRPT completed in Vietnam using Korea-origin HRS and subsequently exported from Vietnam to the United States is circumventing the *Order* on a country-wide basis. As a result, in accordance with section 781(b) of the Act, we determine that the inquiry merchandise should be included within the scope of the *Order*. *See* the ''Suspension of Liquidation and Cash Deposit Requirements'' section, below, for details regarding suspension of liquidation and cash deposit requirements. *See* the ''Certifications'' and ''Certification Requirements for Vietnam'' sections, below, for details regarding the use of certifications.

Suspension of Liquidation and Cash Deposit Requirements

Based on the affirmative country-wide determination of circumvention for Vietnam, in accordance with 19 CFR 351.226(l)(3), we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of LWRPT completed in Vietnam using Korea-origin HRS, that were entered, or withdrawn from warehouse, for consumption on or after August 4, 2022, the date of publication of the initiation of this circumvention inquiry in the **Federal Register**.

LWRPT produced in Vietnam from HRS that is not of Korea origin is not subject to this inquiry. Therefore, cash deposits are not required for such merchandise under the *LWRPT Korea Order*. However, Commerce finds that LWRPT completed in Vietnam using the People's Republic of China (China)-origin HRS is circumventing the AD and countervailing duty (CVD) orders on LWRPT from China, and light-walled welded rectangular carbon steel tubing (LWR tubing) completed in Vietnam using Taiwan-origin HRS is circumventing the AD order on LWR tubing from Taiwan.[10] Imports of such merchandise are subject to certification requirements, and cash deposits may be required.

If an importer imports LWRPT from Vietnam and claims that the LWRPT was not produced from Korea-origin HRS, or alternatively, claims that the LWRPT was produced using an input other than HRS, the importer and exporter are required to meet the certification and documentation requirements described in the ''Certifications'' and ''Certification Requirements for Vietnam'' sections, below, in order to not be subject to the *LWRPT Korea Order* cash deposit requirements.

See Appendix II for the revised importer and exporter certifications, which we have modified in response to comments to allow parties to also use the certifications when their shipments of LWRPT were not produced using HRS.

Where no certification is provided for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate applicable to the AD and CVD orders on LWRPT from China (*i.e.,* the AD cash deposit rate established for the China-wide entity (255.07 percent) and the CVD cash deposit rate established for all-others (15.28 percent) under the following third country CBP case numbers: A–552–914–000 and C–552–915–000.[11] This is to prevent evasion, given that the AD/CVD cash deposit rates established for LWRPT from China are higher than the AD cash deposit rates established for LWRPT from Korea and LWRPT from Taiwan.[12]

Where a certification is provided for the AD/CVD orders on LWRPT from China (stating that the merchandise was not produced using China-origin HRS or was produced using an input other than HRS), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate applicable to the *Taiwan Order* (*i.e.,* the AD cash deposit rate established for all-others (18.05 percent)) under the following third country CBP case number: A–552–863–000.[13] This is to prevent evasion, given that the AD cash deposit rate established for LWRPT from Taiwan is higher than the AD cash deposit rate established for LWRPT from Korea.[14]

Commerce established the following third country CBP case number in the Automated Commercial Environment (ACE) for entries of LWRPT produced in Vietnam using Korea-origin HRS: A–552–859–000. Commerce also established the following company-specific third country CBP case number for Vina One, for which Commerce made an affirmative determination of circumvention, for entries of LWRPT produced in Vietnam using Taiwan-origin HRS: A–552–859–001. The cash deposit rate will be the Korea AD all-others rate (*i.e.,* 15.79 percent).[15]

For Hoa Phat Steel Pipe Co., Ltd. (Hoa Phat), which will not be permitted to certify that its merchandise was not produced from Korea-origin HRS, Commerce will direct CBP, for all entries of LWRPT from Vietnam produced or exported by Hoa Phat, to suspend liquidation and require a cash deposit at the AD/CVD cash deposit rates established for LWRPT from China.[16] Commerce established the following company-specific third country CBP case numbers for Hoa Phat: A–552–914–001 and C–552–915–001.

These suspension of liquidation instructions will remain in effect until further notice.

Certified Entries

Entries for which the importer and exporter have met the certification requirements described below and in Appendix II to this notice will not be subject to suspension of liquidation, or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to AD and CVD duties.

Certifications

To administer the country-wide affirmative determination of circumvention, Commerce established importer and exporter certifications which allow companies to certify that specific entries of LWRPT from Vietnam

[10] *See* the unpublished **Federal Register** notices, ''Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping and Countervailing Duty Orders,'' and ''Light-Walled Welded Rectangular Carbon Steel Tubing from the Republic of Korea: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,'' dated concurrently with this notice.

[11] *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value,* 73 FR 45403 (August 5, 2008); and *Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Notice of Countervailing Duty Order,* 73 FR 45405 (August 5, 2008).

[12] *See Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan; Final Results of Antidumping Duty Administrative Review,* 57 FR 24464, 24466 (June 9, 1992) (*Taiwan Order*).

[13] *See Taiwan Order.*

[14] *See LWRPT Korea Order.*

[15] *Id.*

[16] Hoa Phat is not eligible to participate in the certification program as either producer or exporter. In addition, other parties exporting pipe products produced by Hoa Phat will likewise not be eligible to participate in the certification program with regard to such products.

are not subject to suspension of liquidation or the collection of cash deposits pursuant to this country-wide affirmative determination of circumvention because the merchandise was not made with Korea-origin HRS or was made with an input other than HRS (*see* Appendix II to this notice). Because Hoa Phat was non-cooperative, it is not eligible to use the certification described above.[17]

Importers and exporters that claim that the entry of LWRPT is not subject to suspension of liquidation or the collection of cash deposits because the merchandise was not made with Korea-origin HRS or was made with an input other than HRS must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the applicable certification.

Certification Requirements for Vietnam

Importers are required to complete and maintain the applicable importer certification, and maintain a copy of the applicable exporter certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit both the importer's certification and the exporter's certification to CBP as part of the entry process by uploading them into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, the importer should obtain the entry summary number from the broker. Agents of the importer, such as a broker, however, are not permitted to certify on behalf of the importer.

Exporters are required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (*e.g.,* invoice, purchase order, production records, *etc.*). With the exception of the entries described below, the exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the LWRPT that was manufactured in Vietnam to the United States.

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers and exporters are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all LWRPT from Vietnam that was entered, or withdrawn from warehouse, for consumption during the period August 4, 2022 (the date of initiation of this circumvention inquiry), through the date of publication of the *Preliminary Determination* in the **Federal Register**, where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should already be complete and signed.

For unliquidated entries (and entries for which liquidation has not become final) of LWRPT that were declared as non-AD type entries (*e.g.,* type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period August 4, 2022 (the date of initiation of these circumvention inquiries), through the date of publication of the *Preliminary Determination* in the **Federal Register**, for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD type entries to AD type entries (*e.g.,* type 01 to type 03). Importers should report those AD type entries using the third country case numbers identified in the ''Suspension of Liquidation and Cash Deposit Requirements'' section, above. The importer should post cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties, including AD/CVD duties.

If it is determined that an importer and/or exporter has not met the certification and/or related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this country-wide affirmative determination of circumvention and the *Order,*[18] all unliquidated entries for which these requirements were not met and require the importer to post applicable cash deposits equal to the rates noted above.

Opportunity To Request an Administrative Review

Each year during the anniversary month of the publication of an AD or CVD order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Act, may request, in accordance with 19 CFR 351.213, that Commerce conduct an administrative review of that AD or CVD order, finding, or suspended investigation. An interested party who would like Commerce to conduct an administrative review should wait until Commerce announces via the **Federal Register** the next window during the anniversary month of the publication of the AD order to submit such requests. The anniversary month for this *Order* is August.

Administrative Protective Order

This notice will serve as the only reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the 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 the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.226(g)(2).

Dated: November 2, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Issues and Decision Memorandum

[17] *See Preliminary Determination* PDM at the ''Use of Facts Available with Adverse Inferences'' section; *see also, e.g., Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order,* 63 FR 18364, 18366 (April 15, 1998), unchanged in *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 63 FR 54672, 54675–76 (October 13, 1998).

[18] *See Order.*

Appendix II

1. Certifications

Importer Certification

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY};

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of light-walled rectangular pipe and tube (LWRPT) produced in the Socialist Republic of Vietnam that entered under entry summary number(s), identified below, and are covered by this certification. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of LWRPT, including the exporter's and/or foreign seller's identity and location;

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The LWRPT covered by this certification was imported by {IMPORTING COMPANY} on behalf of {U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER};

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

D. The LWRPT covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. I have personal knowledge of the facts regarding the production of the imported products covered by this certification. ''Personal knowledge'' includes facts obtained from another party, (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the source of hot-rolled steel (HRS) or an input other than HRS used to produce the imported LWRPT);

F. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #:
Foreign Seller:
Foreign Seller's Address:
Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:
Country of Origin of HRS: State ''N/A'' for ''Country of Origin of HRS'' if the LWRPT covered by this certification was produced using inputs other than HRS.
Producer:
Producer's Address:

G. The LWRPT covered by this certification does not contain HRS produced in the Republic of Korea (Korea);

H. I understand that {IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, certificates of origin, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

I. I understand that {IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to the production and/or exportation of the imported merchandise identified above), and any supporting documentation provided to the importer by the exporter, until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries;

J. I understand that {IMPORTING COMPANY} is required to submit a copy of the importer and exporter certifications as part of the entry summary by uploading them into the document imaging system (DIS) in ACE, and to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, and a copy of the exporter's certification, and any supporting documentation provided to the importer by the exporter, upon request of either agency;

K. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

L. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping duty (AD) order on LWRPT from Korea. I understand that such finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

M. I understand that agents of the importer, such as brokers, are not permitted to make this certification;

N. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

O. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

Exporter Certification

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES); located at {ADDRESS OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES);

B. I have direct personal knowledge of the facts regarding the production and exportation of the light-walled welded rectangular pipe and tube (LWRPT) for which sales are identified below. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location;

C. The LWRPT covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

D. The LWRPT covered by this certification does not contain HRS produced in the Republic of Korea (Korea);

E. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:
Foreign Seller's Invoice to U.S. Customer Line item #:
Producer Name:
Producer's Address:
Producer's Invoice # to Foreign Seller: (*If the foreign seller and the producer are the same party, put NA here.*)
Name of Producer of HRS: State ''N/A'' if the producer did not use HRS in the production of the LWRPT.
Location (Country) of Producer of HRS: State ''N/A'' if the producer did not use HRS in the production of LWRPT.

F. The LWRPT covered by this certification was shipped to {NAME OF U.S. PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

G. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

H. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon request of either agency;

I. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty order on LWRPT from Korea. I understand that such a finding will result in:

(i) suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the seller/exporter no longer being allowed to participate in the certification process.

K. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

L. This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the shipment date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**; and

M. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

[FR Doc. 2023–24795 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Certain Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Final Affirmative Determination of Circumvention of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of certain circular welded non-alloy steel pipe (CWP), completed in the Socialist Republic of Vietnam (Vietnam) using hot-rolled steel (HRS) produced in the Republic of Korea (Korea), are circumventing the antidumping duty (AD) order on CWP from Korea.

DATES: Applicable November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Andre Gziryan, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2201.

SUPPLEMENTARY INFORMATION:

Background

On November 2, 1992, Commerce published in the **Federal Register** the AD order on CWP from Korea.[1] On August 4, 2022, Commerce initiated a country-wide circumvention inquiry to determine whether certain imports of CWP completed in Vietnam using HRS produced in Korea are circumventing the *Order*.[2] On April 12, 2023, Commerce published in the **Federal Register** its *Preliminary Determination* that imports of CWP completed in Vietnam using HRS produced in Korea are circumventing the *Order*.[3] On May 15, 2023, Commerce extended the deadline for the final determination of this circumvention inquiry to August 4, 2023.[4] On July 20, 2023, Commerce further extended the deadline for the final determination to November 2, 2023.[5] For a summary of events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for consideration in the final determination, *see* the Issues and Decision Memorandum.[6] The Issues and

[1] *See Notice of Antidumping Duty Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela, and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea,* 57 FR 49453 (November 2, 1992) (*Order* or *Korea Order*).

[2] *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China; Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Certain Welded Carbon Steel Standard Pipes and Tubes from India; Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan; Certain Circular Welded Non-Alloy Steel Pipe from Taiwan; Light-Walled Rectangular Pipe and Tube from the People's Republic of China; Light-Walled Rectangular Pipe and Tube from the Republic of Korea; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan: Initiation of Circumvention Inquiries on the Antidumping and Countervailing Duty Orders,* 87 FR 47711 (August 4, 2022).

[3] *See Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Preliminary Affirmative Determination of Circumvention of the Antidumping Duty Order,* 88 FR 21989 (April 12, 2023) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[4] *See* Memorandum, ''Extension of Deadline for Issuing Final Determinations in Circumvention Inquiries,'' dated May 15, 2023.

[5] *See* Memorandum, ''Extension of Deadline for Issuing Final Determinations in Circumvention Inquiries,'' dated July 20, 2023.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative

Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Scope of the Order

The products covered by the *Order* include certain welded carbon steel standard CWP with an outside diameter of 0.375 inch or more but not over 16 inches. For a full description of the scope of the *Order, see* the Issues and Decision Memorandum.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers CWP completed in Vietnam using Korea-origin HRS and subsequently exported from Vietnam to the United States (inquiry merchandise).

Methodology

Commerce is conducting this circumvention inquiry in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226. *See Preliminary Determination* PDM for a full description of the methodology.[7] We have continued to apply this methodology, without exception, and incorporate by reference this description of the methodology, for our final determination.[8]

Determination of No Shipments

Based on the information provided by Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd. (Vietnam Haiphong) in this circumvention inquiry, Commerce continues to find, as it did in the *Preliminary Determination,* that Vietnam Haiphong had no shipments of inquiry merchandise to the United States during the period of inquiry, January 1, 2017, through December 31, 2021.[9]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice at Appendix I.

Based on our analysis of the comments received from interested parties, we did not revise the *Preliminary Determination,* except for revisions to the certification language (*see* Appendix II), which we have modified in response to comments to allow parties to also use the certifications when their shipments of CWP were not produced using HRS.

Final Circumvention Determination

As detailed in the Issues and Decision Memorandum, Commerce determines that CWP completed in Vietnam using Korea-origin HRS and subsequently exported from Vietnam to the United States is circumventing the *Order* on a country-wide basis. As a result, in accordance with section 781(b) of the Act, we determine that the inquiry merchandise should be included within the scope of the *Order. See* the ''Suspension of Liquidation and Cash Deposit Requirements'' section, below, for details regarding suspension of liquidation and cash deposit requirements. *See* the ''Certifications'' and ''Certification Requirements for Vietnam'' sections, below, for details regarding the use of certifications.

Suspension of Liquidation and Cash Deposit Requirements

Based on the affirmative country-wide determination of circumvention for Korea, in accordance with 19 CFR 351.226(l)(3), we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of CWP completed in Vietnam using Korea-origin HRS, that were entered, or withdrawn from warehouse, for consumption on or after August 4, 2022, the date of publication of the initiation of this circumvention inquiry in the **Federal Register**.

CWP produced in Vietnam from HRS that is not of Korean origin is not subject to this inquiry. Therefore, cash deposits are not required for such merchandise under the *Korea Order.* However, Commerce finds that CWP completed in Vietnam using the People's Republic of China (China)-origin HRS is circumventing the AD and countervailing duty (CVD) orders on CWP from China, and certain welded carbon steel standard pipes and tubes (pipe and tube) from India completed in Vietnam using India-origin HRS are circumventing the AD order on pipe and tube from India.[10] Imports of such merchandise are subject to certification requirements, and cash deposits may be required.

If an importer imports CWP from Vietnam and claims that the CWP was not produced from Korea-origin HRS, or alternately, claims that the CWP was produced using an input other the HRS, the importer and exporter are required to meet the certification and documentation requirements described in the ''Certifications'' and ''Certification Requirements for Vietnam'' sections below in order to not be subject to the *Korea Order* cash deposit requirements.

See Appendix II for the revised importer and exporter certifications, which we have modified in response to comments to allow parties to also use the certifications when their shipments of CWP were not produced using HRS.

Where no certification is provided for an entry, and AD/CVD orders from three countries (China, India, or Korea) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rates applicable to the AD and CVD orders on CWP from China (*i.e.,* the AD cash deposit rate established for the China-wide entity (85.55 percent) and the CVD cash deposit rate established for all-others (39.01 percent)) under the following third country CBP case numbers: A–552–009–000 and C–552–009–000.[11] This is to prevent evasion, given that the AD/CVD cash deposit rates established for CWP from China are higher than the AD cash deposit rates established for pipe and tube from India and CWP from Korea.

Where a certification is provided for the AD/CVD orders on CWP from China (stating that the merchandise was not produced using China-origin HRS or was produced using an input other than HRS), but no other certification is provided, then Commerce intends to

Determination of Circumvention of the Antidumping Duty Order on Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *See Preliminary Determination* PDM at 5–23.

[8] *See* Issues and Decision Memorandum at 4.

[9] *See Preliminary Determination* PDM at 12; *see also* Issues and Decision Memorandum at Comments 2 and 3.

[10] *See* the unpublished **Federal Register** notices, ''*Certain Circular Welded Non-Alloy Steel Pipe from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping and Countervailing Duty Orders,*'' and ''*Certain Welded Carbon Steel Standard Pipes and Tubes from India: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,*'' dated concurrently with this notice.

[11] *See Notice of Antidumping Duty Order: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* 73 FR 42547 (July 22, 2008); and *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order,* 73 FR 42545 (July 22, 2008).

instruct CBP to suspend the entry and collect cash deposits at the rate applicable to the AD order on pipe and tube from India (*i.e.,* the AD cash deposit rate established for all-others (7.08 percent)) under the following third country case number: A–552–012–000.[12] This is to prevent evasion, given that the AD cash deposit rate established for pipe and tube from India is higher than the AD cash deposit rate established for CWP from Korea.

To enter inquiry merchandise (CWP produced in Vietnam using Korea-origin HRS) parties must provide certifications for the AD/CVD orders on CWP from China (stating that the merchandise was not produced using China-origin HRS) and for the AD order on pipe and tube from India (stating that the merchandise was not produced using India-origin HRS). Commerce established the following third country CBP case number in the Automated Commercial Environment (ACE) for entries of CWP produced in Vietnam using Korea-origin HRS: A–552–011–000. Commerce also established the following company-specific third-country CBP case number for SeAH Vina, for which Commerce made an affirmative determination of circumvention, for entries of CWP produced in Vietnam using Korea-origin HRS: A–552–011–001. The cash deposit rate will be the Korea AD all-others rate (*i.e.,* 4.80 percent).[13]

These suspension of liquidation instructions will remain in effect until further notice.

Certified Entries

Entries for which the importer and exporter have met the certification requirements described below and in Appendix II to this notice will not be subject to suspension of liquidation, or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to AD and CVD duties.

Certifications

To administer the country-wide affirmative determination of circumvention for Vietnam, Commerce established importer and exporter certifications which allow companies to certify that specific entries of CWP from Vietnam are not subject to suspension of liquidation or the collection of cash deposits pursuant to this country-wide affirmative determination of circumvention because the merchandise was not made with Korea-origin HRS or was made with an input other than HRS (*see* Appendix II to this notice).

Importers and exporters that claim that the entry of CWP is not subject to suspension of liquidation or the collection of cash deposits because the merchandise was not made with Korea-origin HRS or was made with an input other than HRS must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the applicable certification.

Certification Requirements for Vietnam

Importers are required to complete and maintain the applicable importer certification, and maintain a copy of the applicable exporter certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit both the importer's certification and the exporter's certification to CBP as part of the entry process by uploading them into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, the importer should obtain the entry summary number from the broker. Agents of the importer, such as a broker, however, are not permitted to certify on behalf of the importer.

Exporters are required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (*e.g.,* invoice, purchase order, production records, *etc.*). With the exception of the entries described below, the exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the CWP that was manufactured in Vietnam to the United States.

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers and exporters are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all CWP from Vietnam that was entered, or withdrawn from warehouse, for consumption during the period August 4, 2022 (the date of initiation of this circumvention inquiry), through the date of publication of the *Preliminary Determination* in the **Federal Register**, where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should already be complete and signed.

For unliquidated entries (and entries for which liquidation has not become final) of CWP that were declared as non-AD type entries (*e.g.,* type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period August 4, 2022 (the date of initiation of these circumvention inquiries), through the date of publication of the *Preliminary Determination* in the **Federal Register**, for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD type entries to AD type entries (*e.g.,* type 01 to type 03). Importers should report those AD type entries using the third country CBP case numbers identified in the ''Suspension of Liquidation and Cash Deposit Requirements'' section, above. The importer should post cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties, including AD/CVD duties.

If it is determined that an importer or exporter has not met the certification and related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this country-wide affirmative determination of circumvention and the *Order,*[14] all unliquidated entries for which these requirements were not met and require the importer to post applicable cash deposits equal to the rates noted above.

Opportunity To Request an Administrative Review

Each year during the anniversary month of the publication of an AD or CVD order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Act, may request, in accordance with 19 CFR 351.213, that Commerce conduct an administrative review of that AD or CVD order, finding, or suspended investigation. An interested party who would like Commerce to conduct an

[12] *See Antidumping Duty Order; Certain Welded Carbon Steel Standard Pipes and Tubes from India,* 51 FR 17384 (May 12, 1986).

[13] *See Korea Order.*

[14] *See Order.*

administrative review should wait until Commerce announces via the **Federal Register** the next opportunity to request a review during the anniversary month of the publication of the AD order to submit such requests. The anniversary month for this *Order* is November.

Administrative Protective Order

This notice will serve as the only reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the 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 the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.226(g)(2).

Dated: November 2, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

Appendix II

1. Certifications

Importer Certification

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY};

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of certain circular welded non-alloy steel pipe (CWP) produced in Vietnam that entered under entry summary number(s), identified below, and are covered by this certification. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of CWP, including the exporter's and/or foreign seller's identity and location;

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The CWP covered by this certification was imported by {IMPORTING COMPANY} on behalf of {U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER};

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

D. The CWP covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. I have personal knowledge of the facts regarding the production of the imported products covered by this certification. ''Personal knowledge'' includes facts obtained from another party, (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the source of hot-rolled steel (HRS) or an input other than HRS used to produce the imported CWP);

F. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #:
Foreign Seller:
Foreign Seller's Address:
Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:
Country of Origin of HRS: State ''N/A'' for ''Country of Origin of HRS'' if the CWP covered by this certification was produced using inputs other than HRS.
Producer:
Producer's Address:

G. The CWP covered by this certification does not contain HRS produced in Korea;

H. I understand that {IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, certificates of origin, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

I. I understand that {IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to the production and/or exportation of the imported merchandise identified above), and any supporting documentation provided to the importer by the exporter, until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries;

J. I understand that {IMPORTING COMPANY} is required to submit a copy of the importer and exporter certifications as part of the entry summary by uploading them into the document imaging system (DIS) in ACE, and to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, and a copy of the exporter's certification, and any supporting documentation provided to the importer by the exporter, upon request of either agency;

K. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

L. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping duty (AD) order on CWP from Korea. I understand that such finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

M. I understand that agents of the importer, such as brokers, are not permitted to make this certification;

N. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed by no later than 45

days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

O. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

Exporter Certification

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES); located at {ADDRESS OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES);

B. I have direct personal knowledge of the facts regarding the production and exportation of the certain circular welded non-alloy steel pipe (CWP) for which sales are identified below. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location;

C. The CWP covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

D. The CWP covered by this certification does not contain HRS produced in Korea;

E. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:

Foreign Seller's Invoice to U.S. Customer Line item #:

Producer Name:

Producer's Address:

Producer's Invoice # to Foreign Seller: (*If the foreign seller and the producer are the same party, put NA here.*)

Name of Producer of HRS: State ''N/A'' if the producer did not use HRS in the production of CWP.

Location (Country) of Producer of HRS: State ''N/A'' if the producer did not use HRS in the production of CWP.

F. The CWP covered by this certification was shipped to {NAME OF U.S. PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

G. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

H. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon request of either agency;

I. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty order on CWP from Korea. I understand that such a finding will result in:

(i) suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the seller/exporter no longer being allowed to participate in the certification process.

K. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

L. This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the shipment date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**; and

M. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

[FR Doc. 2023–24802 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–803]

Light-Walled Welded Rectangular Carbon Steel Tubing From Taiwan: Final Affirmative Determination of Circumvention of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of light-walled welded rectangular carbon steel tubing (LWR tubing) from Taiwan, completed in the Socialist Republic of Vietnam (Vietnam) using hot-rolled steel (HRS) produced in Taiwan, are circumventing the antidumping duty (AD) order on LWR tubing from Taiwan.

DATES: Applicable November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen or Christopher Williams, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3683 or (202) 482–5166, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 1989, Commerce published in the **Federal Register** the AD order on LWR tubing from Taiwan.[1] On August 4, 2022, Commerce initiated a country-wide circumvention inquiry to determine whether certain imports of LWR tubing completed in Vietnam using HRS produced in Taiwan are circumventing the *Order*.[2] On April 12, 2023, Commerce published in the **Federal Register** its *Preliminary Determination* that imports of LWR Tubing completed in Vietnam using HRS produced in Taiwan are

[1] *See Antidumping Duty Order; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan,* 54 FR 12467 (March 27, 1989) (*Order* or *Taiwan Order*).

[2] *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China; Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Certain Welded Carbon Steel Standard Pipes and Tubes from India; Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan; Certain Circular Welded Non-Alloy Steel Pipe from Taiwan; Light-Walled Rectangular Pipe and Tube from the People's Republic of China; Light-Walled Rectangular Pipe and Tube from the Republic of Korea; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan: Initiation of Circumvention Inquiries on the Antidumping and Countervailing Duty Orders,* 87 FR 47711 (August 4, 2022).

circumventing the *Order.*[3] On May 15, 2023, Commerce extended the deadline for the final determination in this circumvention inquiry to August 4, 2023.[4] On July 20, 2023, Commerce again extended the deadline for the final determination in this circumvention inquiry to November 2, 2023.[5] For a summary of events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for consideration in the final determination, *see* the Issues and Decision Memorandum.[6] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *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.*

Scope of the Order

The product covered by the *Order* is light-walled welded carbon steel pipe and tube of rectangular (including square) cross-section having a wall thickness of less than 0.156 inch. For a full description of the scope of the *Order, see* the Issues and Decision Memorandum.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers LWR tubing completed in Vietnam using Taiwan-origin HRS, which is subsequently exported from Vietnam to the United States (inquiry merchandise).

Methodology

Commerce is conducting this circumvention inquiry in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226. *See* Preliminary Determination PDM for a full description of the methodology.[7] We have continued to apply this methodology, without exception, and incorporate by reference this description of the methodology, for our final determination.[8]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice at Appendix I.

Based on our analysis of the comments received from interested parties, we did not revise the *Preliminary Determination,* except for revisions to the certification language (*see* Appendix II), which we have modified in response to comments to allow parties to also use the certifications when their shipments of LWR tubing were not produced using HRS.

Final Circumvention Determination

As detailed in the Issues and Decision Memorandum, Commerce determines that LWR tubing completed in Vietnam using Taiwan-origin HRS and subsequently exported from Vietnam to the United States is circumventing the *Order* on a country-wide basis. As a result, in accordance with section 781(b) of the Act, we determine that the inquiry merchandise should be included within the scope of the *Order. See* the ''Suspension of Liquidation and Cash Deposit Requirements'' section, below, for details regarding suspension of liquidation and cash deposit requirements. *See* the ''Certifications'' and ''Certification Requirements for Vietnam'' sections, below, for details regarding the use of certifications.

Suspension of Liquidation and Cash Deposit Requirements

Based on the affirmative country-wide determination of circumvention for Taiwan, in accordance with 19 CFR 351.226(l)(3), we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of LWR tubing completed in Vietnam using Taiwan-origin HRS, that were entered, or withdrawn from warehouse, for consumption on or after August 4, 2022, the date of publication of the initiation of this circumvention inquiry in the **Federal Register**.

LWR tubing produced in Vietnam from HRS that is not of Taiwan origin is not subject to this inquiry. Therefore, cash deposits are not required for such merchandise under the *Taiwan Order.* However, Commerce finds that light-walled rectangular pipe and tube (LWRPT) completed in Vietnam using the People's Republic of China (China)-origin HRS is circumventing the AD and countervailing duty (CVD) orders on LWRPT from China, and LWRPT from Republic of Korea (Korea) completed in Vietnam using Korea-origin HRS is circumventing the AD order on LWRPT from Korea.[9] Imports of such merchandise are subject to certification requirements, and cash deposits may be required.

If an importer imports LWR tubing from Vietnam and claims that the LWR tubing was not produced from Taiwan-origin HRS, or alternatively, claims that the LWR tubing was produced using an input other than HRS, in order to not be subject to the *Taiwan Order* cash deposit requirements, the importer and exporter are required to meet the certification and documentation requirements described in the ''Certifications'' and ''Certification Requirements for Vietnam'' sections, below.

See Appendix II for the revised importer and exporter certifications, which we have modified in response to comments to allow parties to also use the certifications when their shipments of LWR tubing were not produced using HRS.

Where no certification is provided for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate applicable to the AD and CVD orders on LWRPT from China (*i.e.,* the AD cash deposit rate established for the China-wide entity (255.07 percent) and the CVD cash deposit rate established for all-others (15.28 percent) under the following third country CBP case numbers: A–552–914–000 and C–552–915–000.[10]

[3] *See Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan: Preliminary Affirmative Determination of Circumvention of the Antidumping Duty Order,* 88 FR 21980 (April 12, 2023) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[4] *See* Memorandum, ''Extension of Deadline for Issuing Final Determinations in Circumvention Inquiries,'' dated May 15, 2023.

[5] *See* Memorandum, ''Extension of Deadline for Issuing Final Determinations in Circumvention Inquiries,'' dated July 20, 2023.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Circumvention Inquiry of the Antidumping Duty Order on Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *See Preliminary Determination* PDM at 3–12.

[8] *See* Issues and Decision Memorandum at 2.

[9] *See* the unpublished **Federal Register** notices, ''Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping and Countervailing Duty Orders,'' and ''Light-Walled Welded Rectangular Carbon Steel Tubing from Korea: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,'' dated concurrently with this notice.

[10] *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value,* 73 FR 45403 (August 5, 2008); and *Light-Walled*

Continued

This is to prevent evasion, given that the AD/CVD cash deposit rates established for LWRPT from China are higher than the AD cash deposit rates established for LWRPT from Korea and LWR tubing from Taiwan.

Where a certification is provided for the AD/CVD orders on LWRPT from China (stating that the merchandise was not produced using China-origin HRS or was produced using an input other than HRS), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate applicable to the *Taiwan Order* (*i.e.,* the AD cash deposit rate established for all-others (18.05 percent)) under the following third country CBP case number: A–552–863–000.[11] This is to prevent evasion, given that the AD cash deposit rate established for LWR tubing from Taiwan is higher than the AD cash deposit rate established for LWRPT from Korea.

Commerce established the following third country CBP case number in the Automated Commercial Environment (ACE) for entries of LWR tubing produced in Vietnam using Taiwan-origin HRS: A–552–863–000. Commerce also established the following company-specific third country CBP case number for Vina One, for which Commerce made an affirmative determination of circumvention, for entries of LWR tubing produced in Vietnam using Taiwan-origin HRS: A–552–863–001. The cash deposit rate will be the Taiwan AD all-others rate (*i.e.,* 18.05 percent).[12]

For Hoa Phat Steel Pipe Co., Ltd. (Hoa Phat), which will not be permitted to certify that its merchandise was not produced from Taiwan-origin HRS, Commerce will direct CBP, for all entries of LWR tubing from Vietnam produced or exported by Hoa Phat, to suspend liquidation and require a cash deposit at the AD/CVD cash deposit rates established for LWRPT from China.[13] Commerce established the following company-specific third country CBP case numbers for Hoa Phat: A–552–914–001 and C–552–915–001.

These suspension of liquidation instructions will remain in effect until further notice.

Certified Entries

Entries for which the importer and exporter have met the certification requirements described below and in Appendix II to this notice will not be subject to suspension of liquidation, or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to AD and CVD duties.

Certifications

To administer the country-wide affirmative determination of circumvention, Commerce established importer and exporter certifications which allow companies to certify that specific entries of LWR tubing from Vietnam are not subject to suspension of liquidation or the collection of cash deposits pursuant to this country-wide affirmative determination of circumvention because the merchandise was not made with Taiwan-origin HRS or was made with an input other than HRS (*see* Appendix II to this notice). Because Hoa Phat was non-cooperative, it is not eligible to use the certification described above.[14]

Importers and exporters that claim that the entry of LWR tubing is not subject to suspension of liquidation or the collection of cash deposits because the merchandise was not made with Taiwan-origin HRS or was made with an input other than HRS must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the applicable certification.

Certification Requirements for Vietnam

Importers are required to complete and maintain the applicable importer certification, and maintain a copy of the applicable exporter certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit both the importer's certification and the exporter's certification to CBP as part of the entry process by uploading them into the document imaging system in ACE. Where the importer uses a broker to facilitate the entry process, the importer should obtain the entry summary number from the broker. Agents of the importer, such as a broker, however, are not permitted to certify on behalf of the importer.

Exporters are required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (*e.g.,* invoice, purchase order, production records, *etc.*). With the exception of the entries described below, the exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the LWR tubing that was manufactured in Vietnam to the United States.

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers and exporters are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all LWR tubing from Vietnam that was entered, or withdrawn from warehouse, for consumption during the period August 4, 2022 (the date of initiation of this circumvention inquiry), through the date of publication of the preliminary determination in the **Federal Register**, where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should already be completed and signed.

For unliquidated entries (and entries for which liquidation has not become final) of LWR tubing that were declared as non-AD type entries (*e.g.,* type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period August 4, 2022 (the date of initiation of these circumvention inquiries), through the date of publication of the preliminary determination in the **Federal Register**, for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD type entries to AD type entries (*e.g.,* type 01 to type 03). Importers should report those AD

Rectangular Pipe and Tube from the People's Republic of China: Notice of Countervailing Duty Order, 73 FR 45405 (August 5, 2008).

[11] *See Taiwan Order.*

[12] *Id.*

[13] Hoa Phat is not eligible to participate in the certification program as either producer or exporter. In addition, other parties exporting pipe products produced by Hoa Phat will likewise not be eligible to participate in the certification program with regard to such products.

[14] *See Preliminary Determination* PDM at the ''Use of Facts Available with Adverse Inferences'' section; *see also, e.g., Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order,* 63 FR 18364, 18366 (April 15, 1998), unchanged in *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 63 FR 54672, 54675–76 (October 13, 1998).

type entries using the third country CBP case numbers identified in the ''Suspension of Liquidation and Cash Deposit Requirements'' section, above. The importer should post cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties, including AD/CVD duties.

If it is determined that an importer or exporter has not met the certification and related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this country-wide affirmative determination of circumvention and the *Order,*[15] all unliquidated entries for which these requirements were not met and require the importer to post applicable cash deposits equal to the rates noted above.

Opportunity To Request an Administrative Review

Each year during the anniversary month of the publication of an AD or CVD order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Act, may request, in accordance with 19 CFR 351.213, that Commerce conduct an administrative review of that AD or CVD order, finding, or suspended investigation. An interested party who would like Commerce to conduct an administrative review should wait until Commerce announces via the **Federal Register** the next opportunity to request a review during the anniversary month of the publication of the AD order to submit such requests. The anniversary month for this *Order* is March.

Administrative Protective Order

This notice will serve as the only reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the 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 the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.226(g)(2).

[15] *See Order.*

Dated: November 2, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Issues and Decision Memorandum

Appendix II

1. Certifications

Importer Certification

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY};

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of light-walled welded rectangular carbon steel tubing (LWR tubing) produced in Vietnam that entered under entry summary number(s), identified below, and are covered by this certification. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of LWR tubing, including the exporter's and/or foreign seller's identity and location;

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The LWR tubing covered by this certification was imported by {IMPORTING COMPANY} on behalf of {U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER};

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

D. The LWR tubing covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. I have personal knowledge of the facts regarding the production of the imported products covered by this certification. ''Personal knowledge'' includes facts obtained from another party, (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the source of hot-rolled steel (HRS) or an input other than HRS used to produce the imported LWR tubing);

F. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #:
Foreign Seller:
Foreign Seller's Address:
Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:
Country of Origin of HRS: State ''N/A'' for ''Country of Origin of HRS'' if the LWR tubing covered by this certification was produced using inputs other than HRS.
Producer:
Producer's Address:

G. The LWR tubing covered by this certification does not contain HRS produced in Taiwan;

H. I understand that {IMPORTING COMPANY} is required to maintain a copy

of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, certificates of origin, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

I. I understand that {IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to the production and/or exportation of the imported merchandise identified above), and any supporting documentation provided to the importer by the exporter, until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries;

J. I understand that {IMPORTING COMPANY} is required to submit a copy of the importer and exporter certifications as part of the entry summary by uploading them into the document imaging system (DIS) in ACE, and to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, and a copy of the exporter's certification, and any supporting documentation provided to the importer by the exporter, upon request of either agency;

K. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

L. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping duty (AD) order on LWR tubing from Taiwan. I understand that such finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

M. I understand that agents of the importer, such as brokers, are not permitted to make this certification;

N. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

O. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

Exporter Certification

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES); located at {ADDRESS OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES);

B. I have direct personal knowledge of the facts regarding the production and exportation of the light-walled welded rectangular carbon steel tubing from Taiwan (LWR tubing) for which sales are identified below. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location;

C. The LWR tubing covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

D. The LWR tubing covered by this certification does not contain HRS produced in Taiwan;

E. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:

Foreign Seller's Invoice to U.S. Customer Line item #:

Producer Name:

Producer's Address:

Producer's Invoice # to Foreign Seller: (*If the foreign seller and the producer are the same party, put NA here.*)

Name of Producer of HRS: State ''N/A'' if the producer did not use HRS in the production of LWR tubing.

Location (Country) of Producer of HRS: State ''N/A'' if the producer did not use HRS in the production of LWR tubing.

F. The LWR tubing covered by this certification was shipped to {NAME OF U.S. PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

G. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

H. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon request of either agency;

I. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty order on LWR tubing from Taiwan. I understand that such a finding will result in:

(i) suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the seller/exporter no longer being allowed to participate in the certification process.

K. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

L. This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the shipment date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**; and

M. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

[FR Doc. 2023–24803 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–502]

Certain Welded Carbon Steel Standard Pipes and Tubes From India: Final Affirmative Determination of Circumvention of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of certain welded carbon steel standard pipes and tubes (pipe and tube), completed in the Socialist Republic of Vietnam (Vietnam) using hot-rolled steel (HRS) produced in India, are circumventing the antidumping duty (AD) order on pipe and tube from India.

DATES: Applicable November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0665.

SUPPLEMENTARY INFORMATION:

Background

On May 12, 1986, Commerce published in the **Federal Register** the AD order on pipe and tube from India.[1] On August 4, 2022, Commerce initiated a country-wide circumvention inquiry to determine whether certain imports of pipe and tube completed in Vietnam using HRS produced in India are circumventing the *Order*.[2] On April 12, 2023, Commerce published in the **Federal Register** its *Preliminary Determination* that imports of pipe and tube completed in Vietnam using HRS produced in India are circumventing the *Order*.[3] On May 15, 2023, Commerce extended the deadline for the final determination of this circumvention inquiry to August 4, 2023.[4] On July 20, 2023, Commerce further extended the deadline for the final determination to November 2, 2023.[5] For a summary of events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for consideration in the final determination, *see* the Issues and Decision Memorandum.[6] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *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.*

Scope of the Order

The products covered by the *Order* include certain welded carbon steel standard pipes and tubes with an outside diameter of 0.375 inch or more but not over 16 inches. For a full description of the scope of the *Order, see* the Issues and Decision Memorandum.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers pipe and tube completed in Vietnam using India-origin HRS and subsequently exported from Vietnam to the United States (inquiry merchandise).

Methodology

Commerce is conducting this circumvention inquiry in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226. *See Preliminary Determination* PDM for a full description of the methodology.[7] We have continued to apply this methodology, without exception, and incorporate by reference this description of the methodology, for our final determination.[8]

Determination of No Shipments

Based on the information provided by Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd. (Vietnam Haiphong) in this circumvention inquiry, Commerce continues to find, as it did in the *Preliminary Determination,* that Vietnam Haiphong had no shipments of inquiry merchandise to the United States during the period of inquiry, January 1, 2017, through December 31, 2021.[9]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this inquiry are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice at Appendix I.

Based on our analysis of the comments received from interested parties, we did not revise the *Preliminary Determination,* except for revisions to the certification language (*see* Appendix II), which we have modified in response to comments to allow parties to also use the certifications when their shipments of pipe and tube were not produced using HRS.

Final Circumvention Determination

As detailed in the Issues and Decision Memorandum, Commerce determines that pipe and tube completed in Vietnam using India-origin HRS and subsequently exported from Vietnam to the United States is circumventing the *Order* on a country-wide basis. As a result, in accordance with section 781(b) of the Act, we determine that the inquiry merchandise should be included within the scope of the *Order. See* the ''Suspension of Liquidation and Cash Deposit Requirements'' section, below, for details regarding suspension of liquidation and cash deposit requirements. *See* the ''Certifications'' and ''Certification Requirements for Vietnam'' sections, below, for details regarding the use of certifications.

Suspension of Liquidation and Cash Deposit Requirements

Based on the affirmative country-wide determination of circumvention for India, in accordance with 19 CFR 351.226(l)(3), we will direct U.S. Customs and Border Protection (CBP) to

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[1] *See Antidumping Duty Order; Certain Welded Carbon Steel Standard Pipes and Tubes from India,* 51 FR 17384 (May 12, 1986) (*Order* or *India Order*).

[2] *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China; Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Certain Welded Carbon Steel Standard Pipes and Tubes from India; Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan; Certain Circular Welded Non-Alloy Steel Pipe from Taiwan; Light-Walled Rectangular Pipe and Tube from the People's Republic of China; Light-Walled Rectangular Pipe and Tube from the Republic of Korea; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan: Initiation of Circumvention Inquiries on the Antidumping and Countervailing Duty Orders,* 87 FR 47711 (August 4, 2022).

[3] *See Certain Welded Carbon Steel Standard Pipes and Tubes from India: Preliminary Affirmative Determination of Circumvention of the Antidumping Duty Order,* 88 FR 21994 (April 12, 2023) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[4] *See* Memorandum, ''Extension of Deadline for Issuing Final Determinations in Circumvention Inquiries,'' dated May 15, 2023.

[5] *See* Memorandum, ''Extension of Deadline for Issuing Final Determinations in Circumvention Inquiries,'' dated July 20, 2023.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Circumvention Inquiry of the Antidumping Duty Order on Certain Welded Carbon Steel Standard Pipes and Tubes from India,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *See Preliminary Determination* PDM at 5–23.

[8] *See* Issues and Decision Memorandum at 4.

[9] *See Preliminary Determination* PDM at 12; *see also* Issues and Decision Memorandum at Comments 2 and 3.

suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of pipe and tube completed in Vietnam using India-origin HRS, that were entered, or withdrawn from warehouse, for consumption on or after August 4, 2022, the date of publication of the initiation of this circumvention inquiry in the **Federal Register**.

Pipe and tube produced in Vietnam from HRS that is not of Indian origin is not subject to this inquiry. Therefore, cash deposits are not required for such merchandise under the *India Order.* However, Commerce finds that certain circular welded non-alloy steel pipe (CWP) completed in Vietnam using the People's Republic of China (China)-origin HRS is circumventing the AD and countervailing duty (CVD) orders on CWP from China, and CWP completed in Vietnam using the Republic of Korea (Korea)-origin HRS is circumventing the AD order on CWP from Korea.[10] Imports of such merchandise are subject to certification requirements, and cash deposits may be required.

If an importer imports pipe and tube from Vietnam and claims that the pipe and tube was not produced from India-origin HRS, or alternately, claims that the pipe and tube was produced using an input other the HRS, the importer and exporter are required to meet the certification and documentation requirements described in the ''Certifications'' and ''Certification Requirements for Vietnam'' sections below in order to not be subject to the *India Order* cash deposit requirements.

See Appendix II for the revised importer and exporter certifications, which we have modified in response to comments to allow parties to also use the certifications when their shipments of pipe and tube were not produced using HRS.

Where no certification is provided for an entry, and AD/CVD orders from three countries (China, India, or Korea) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate applicable to the AD and CVD orders on CWP from China (*i.e.,* the AD cash deposit rate established for the China-wide entity (85.55 percent) and the CVD cash deposit rate established for all-others (39.01 percent)) under the following third country CBP case numbers: A–552–009–000 and C–552–010–000.[11] This is to prevent evasion, given that the AD/CVD cash deposit rates established for CWP from China are higher than the AD cash deposit rates established for pipe and tube from India and CWP from Korea.

Where a certification is provided for the AD/CVD orders on CWP from China (stating that the merchandise was not produced using China-origin HRS or was produced using an input other than HRS), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate applicable to the *India Order* (*i.e.,* the AD case deposit rate established for all-others (7.08 percent)) under the following third country CBP case number: A–552–012–000.[12] This is to prevent evasion, given that the AD cash deposit rate established for pipe and tube from India is higher than the AD cash deposit rate established for CWP from Korea.

Commerce established the following third country CBP case number in the Automated Commercial Environment (ACE) for entries of pipe and tube produced in Vietnam using India-origin HRS: A–552–012–000. Commerce also established the following company-specific third country CBP case number for SeAH VINA, for which Commerce made an affirmative determination of circumvention, for entries of pipe and tube produced in Vietnam using India-origin HRS: A–552–012–001. The cash deposit rate will be the India AD all-others rate (*i.e.,* 7.08 percent).[13]

These suspension of liquidation instructions will remain in effect until further notice.

Certified Entries

Entries for which the importer and exporter have met the certification requirements described below and in Appendix II to this notice will not be subject to suspension of liquidation, or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to AD and CVD duties.

Certifications

To administer the country-wide affirmative determination of circumvention for Vietnam, Commerce established importer and exporter certifications which allow companies to certify that specific entries of pipe and tube from Vietnam are not subject to suspension of liquidation or the collection of cash deposits pursuant to this country-wide affirmative determination of circumvention because the merchandise was not made with India-origin HRS or was made with an input other than HRS (*see* Appendix II to this notice).

Importers and exporters that claim that the entry of pipe and tube is not subject to suspension of liquidation or the collection of cash deposits because the merchandise was not made with India-origin HRS or was made with an input other than HRS must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the applicable certification.

Certification Requirements for Vietnam

Importers are required to complete and maintain the applicable importer certification, and maintain a copy of the applicable exporter certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit both the importer's certification and the exporter's certification to CBP as part of the entry process by uploading them into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, the importer should obtain the entry summary number from the broker. Agents of the importer, such as a broker, however, are not permitted to certify on behalf of the importer.

Exporters are required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (*e.g.,* invoice, purchase order, production records, *etc.*). With the exception of the entries described below, the exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the pipe and tube that was manufactured in Vietnam to the United States.

[10] *See* the unpublished **Federal Register** notices, ''*Certain Circular Welded Non-Alloy Steel Pipe from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping and Countervailing Duty Orders,*'' and ''*Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,*'' dated concurrently with this notice.

[11] *See Notice of Antidumping Duty Order: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* 73 FR 42547 (July 22, 2008); and *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order,* 73 FR 42545 (July 22, 2008).

[12] *See India Order.*

[13] *Id.*

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers and exporters are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all pipe and tube from Vietnam that was entered, or withdrawn from warehouse, for consumption during the period August 4, 2022 (the date of initiation of this circumvention inquiry), through the date of publication of the *Preliminary Determination* in the **Federal Register**, where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should already be complete and signed.

For unliquidated entries (and entries for which liquidation has not become final) of pipe and tube that were declared as non-AD type entries (*e.g.,* type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period August 4, 2022 (the date of initiation of these circumvention inquiries), through the date of publication of the *Preliminary Determination* in the **Federal Register**, for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD type entries to AD type entries (*e.g.,* type 01 to type 03). Importers should report those AD type entries using the third country CBP case numbers identified in the ''Suspension of Liquidation and Cash Deposit Requirements'' section, above. The importer should post cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties, including AD/CVD duties.

If it is determined that an importer or exporter has not met the certification and related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this country-wide affirmative determination of circumvention and the *Order,*[14] all unliquidated entries for which these requirements were not met and require the importer to post applicable cash deposits equal to the rates noted above.

[14] *See Order.*

Opportunity To Request an Administrative Review

Each year during the anniversary month of the publication of an AD or CVD order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Act, may request, in accordance with 19 CFR 351.213, that Commerce conduct an administrative review of that AD or CVD order, finding, or suspended investigation. An interested party who would like Commerce to conduct an administrative review should wait until Commerce announces via the **Federal Register** the next opportunity to request a review during the anniversary month of the publication of the AD order to submit such requests. The anniversary month for this *Order* is May.

Administrative Protective Order

This notice will serve as the only reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the 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 the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.226(g)(2).

Dated: November 2, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

Appendix II

1. Certifications

IMPORTER CERTIFICATION

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY};

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of certain welded carbon steel standard pipes and tubes (pipe and tube) produced in Vietnam that entered under entry summary number(s), identified below, and are covered by this certification. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of pipe and tube, including the exporter's and/or foreign seller's identity and location;

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The pipe and tube covered by this certification was imported by {IMPORTING COMPANY} on behalf of {U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER};

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

D. The pipe and tube covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. I have personal knowledge of the facts regarding the production of the imported products covered by this certification. ''Personal knowledge'' includes facts obtained from another party, (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the source of hot-rolled steel (HRS) or an input other than HRS used to produce the imported pipe and tube);

F. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #:
Foreign Seller:
Foreign Seller's Address:
Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:
Country of Origin of HRS: State ''N/A'' for ''Country of Origin of HRS'' if the pipe and tube covered by this certification was produced using inputs other than HRS.
Producer:
Producer's Address:

G. The pipe and tube covered by this certification does not contain HRS produced in India;

H. I understand that {IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, certificates of origin, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

I. I understand that {IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to the production and/or exportation of the imported merchandise identified above), and any supporting documentation provided to the importer by the exporter, until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries;

J. I understand that {IMPORTING COMPANY} is required to submit a copy of the importer and exporter certifications as part of the entry summary by uploading them into the document imaging system (DIS) in ACE, and to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, and a copy of the exporter's certification, and any supporting documentation provided to the importer by the exporter, upon request of either agency;

K. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

L. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping duty (AD) order on pipe and tube from India. I understand that such finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

M. I understand that agents of the importer, such as brokers, are not permitted to make this certification;

N. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

O. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

Exporter Certification

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES); located at {ADDRESS OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES);

B. I have direct personal knowledge of the facts regarding the production and exportation of the certain welded carbon steel standard pipes and tubes (pipe and tube) for which sales are identified below. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location;

C. The pipe and tube covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

D. The pipe and tube covered by this certification does not contain HRS produced in India;

E. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:
Foreign Seller's Invoice to U.S. Customer Line item #:
Producer Name:
Producer's Address:
Producer's Invoice # to Foreign Seller: (*If the foreign seller and the producer are the same party, put NA here.*)
Name of Producer of HRS: State ''N/A'' if the producer did not use HRS in the production of pipe and tube.
Location (Country) of Producer of HRS: State ''N/A'' if the producer did not use HRS in the production of pipe and tube.

F. The pipe and tube covered by this certification was shipped to {NAME OF U.S. PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

G. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

H. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon request of either agency;

I. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty order on pipe and tube from India. I understand that such a finding will result in:

(i) suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the seller/exporter no longer being allowed to participate in the certification process.

K. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

L. This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the shipment date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than 45 days after publication of the

notice of Commerce's preliminary determination of circumvention in the **Federal Register**; and

M. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

[FR Doc. 2023–24799 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–914, C–570–915]

Light-Walled Rectangular Pipe and Tube From the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of light-walled rectangular pipe and tube (LWRPT), completed in the Socialist Republic of Vietnam (Vietnam) using hot-rolled steel (HRS) produced in the People's Republic of China (China), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on LWRPT from China.

DATES: Applicable November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Reginald Anadio, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3166.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 2008, Commerce published in the **Federal Register** the AD and CVD orders on LWRPT from China.[1] On August 4, 2022, Commerce initiated a country-wide circumvention inquiry to determine whether certain imports of LWRPT completed in Vietnam using HRS produced in China are circumventing the *Orders*.[2] On April 12, 2023, Commerce published in the **Federal Register** its *Preliminary Determination* that imports of LWRPT completed in Vietnam using HRS produced in China are circumventing the *Orders*.[3]

On May 15, 2023, Commerce extended the deadline for the final determination of this circumvention inquiry to August 4, 2023.[4] On July 20, 2023, Commerce further extended the deadline for the final determination in this circumvention inquiry to November 2, 2023.[5] For a summary of events that occurred since the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for consideration in the final determination, *see* the Issues and Decision Memorandum.[6]

The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *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.*

Scope of the Orders

The products covered by the *Orders* include certain quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 millimeters. For a full description of the scope of the *Orders, see* the Issues and Decision Memorandum.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers LWRPT completed in Vietnam using China-origin HRS and subsequently exported from Vietnam to the United States (inquiry merchandise).

Methodology

Commerce is conducting this circumvention inquiry in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226. *See Preliminary Determination* PDM for a full description of the methodology.[7] We have continued to apply this methodology, without exception, and incorporate by reference this description of the methodology, for our final determination.[8]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in these inquiries are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice at Appendix I.

Based on our analysis of the comments received from interested parties, we made no changes to the *Preliminary Determination,* except for the revisions to the certification language (*see* Appendix II), which we have modified in response to comments to allow parties to also use the certifications when their shipments of LWRPT were not produced using HRS.

Final Circumvention Determination

As detailed in the Issues and Decision Memorandum, Commerce determines that LWRPT completed in Vietnam using China-origin HRS and subsequently exported from Vietnam to the United States is circumventing the *Orders* on a country-wide basis. As a result, in accordance with section 781(b) of the Act, we determine that the inquiry merchandise should be included within the scope of the *Orders. See* the ''Suspension of Liquidation and Cash Deposit Requirements'' section, below, for details regarding suspension of liquidation and cash deposit requirements. *See* the ''Certifications'' and ''Certification Requirements for Vietnam'' sections, below, for details regarding the use of certifications.

[1] *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value,* 73 FR 45403 (August 5, 2008); and *Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Notice of Countervailing Duty Order,* 73 FR 45405 (August 5, 2008) (collectively, *Orders* or *China Orders*).

[2] *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China; Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Certain Welded Carbon Steel Standard Pipes and Tubes from India; Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan; Certain Circular Welded Non-Alloy Steel Pipe from Taiwan; Light-Walled Rectangular Pipe and Tube from the People's Republic of China; Light-Walled Rectangular Pipe and Tube from the Republic of Korea; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan: Initiation of Circumvention Inquiries on the Antidumping and Countervailing Duty Orders,* 87 FR 47711 (August 4, 2022), and accompanying Circumvention Initiation Memorandum.

[3] *See Light-Walled Rectangular Pipe and Tube from the People's Republic of China: Preliminary Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders,* 88 FR 21985 (April 12, 2023) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[4] *See* Memorandum, ''Extension of Deadline for Issuing Final Determinations in Circumvention Inquiries,'' dated May 15, 2023.

[5] *See* Memorandum, ''Extension of Deadline for Issuing Final Determinations in Circumvention Inquiries,'' dated July 20, 2023.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Affirmative Circumvention Determination of the Antidumping Duty and Countervailing Duty Orders on Light-Walled Rectangular Pipe and Tube from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] *See Preliminary Determination* PDM at 4–30.

[8] *See* Issues and Decision Memorandum at 1–67.

Suspension of Liquidation and Cash Deposit Requirements

Based on the affirmative country-wide determination of circumvention for Vietnam, in accordance with 19 CFR 351.226(l)(3), we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of LWRPT completed in Vietnam using China-origin HRS, that were entered, or withdrawn from warehouse, for consumption on or after August 4, 2022, the date of publication of the initiation of this circumvention inquiry in the **Federal Register**.

LWRPT produced in Vietnam from HRS that is not of China origin is not subject to this inquiry. Therefore, cash deposits are not required for such merchandise under the *China Orders.* However, Commerce finds that LWRPT completed in Vietnam using the Republic of Korea (Korea)-origin HRS is circumventing the AD order on LWRPT from Korea, and light-walled welded rectangular carbon steel tubing (LWR tubing) completed in Vietnam using Taiwan-origin HRS is circumventing the AD order on LWR tubing from Taiwan.[9] Imports of such merchandise are subject to certification requirements, and cash deposits may be required.

If an importer imports LWRPT from Vietnam and claims that the LWRPT was not produced from China-origin HRS, or alternatively, claims that the LWRPT was produced using an input other than HRS, the importer and exporter are required to meet the certification and documentation requirements described in the ''Certifications'' and ''Certification Requirements for Vietnam'' sections, below, in order to not be subject to the *China Orders* cash deposit requirements.

See Appendix II for the revised importer and exporter certifications, which we have modified in response to comments to allow parties to also use the certifications when their shipments of LWRPT were not produced using HRS.

Where no certification is provided for an entry, and AD/CVD orders from three countries (China, Korea, or Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate applicable to the AD and CVD orders on LWRPT from China (*i.e.,* the AD cash deposit rate established for the China-wide entity (255.07 percent) and the CVD cash deposit rate established for all-others (15.28 percent) under the following third country CBP case numbers: A–552–914–000 and C–552–915–000.[10] This is to prevent evasion, given that the AD/CVD cash deposit rates established for LWRPT from China are higher than the AD cash deposit rates established for LWRPT from Korea and LWR tubing from Taiwan.[11]

Where a certification is provided for the AD/CVD orders on LWRPT from China (stating that the merchandise was not produced using China-origin HRS or was produced using an input other than HRS), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate applicable to the *Taiwan Order* (*i.e.,* the AD cash deposit rate established for all-others (18.05 percent)) under the following third country CBP case number: A–552–863–000.[12] This is to prevent evasion, given that the AD cash deposit rate established for LWR tubing from Taiwan is higher than the AD cash deposit rate established for LWRPT from Korea.[13]

Commerce established the following third CBP country case number in the Automated Commercial Environment (ACE) for entries of LWRPT produced in Vietnam using Korea-origin HRS: A–552–859–000. The cash deposit rate will be the Korea AD all-others rate (*i.e.,* 15.79 percent).[14]

For Hoa Phat, which will not be permitted to certify that its merchandise was not produced from China-origin HRS, Commerce will direct CBP, for all entries of LWRPT from Vietnam produced or exported by Hoa Phat, to suspend liquidation and require a cash deposit at the AD/CVD cash deposit rates established for LWRPT from China.[15] Commerce established the following company-specific third country CBP case numbers for Hoa Phat: A–552–914–001 and C–552–915–001.

These suspension of liquidation instructions will remain in effect until further notice.

Certified Entries

Entries for which the importer and exporter have met the certification requirements described below and in Appendix II to this notice will not be subject to suspension of liquidation, or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to AD and CVD duties.

Certifications

To administer the country-wide affirmative determination of circumvention, Commerce established importer and exporter certifications which allow companies to certify that specific entries of LWRPT from Vietnam are not subject to suspension of liquidation or the collection of cash deposits pursuant to this country-wide affirmative determination of circumvention because the merchandise was not made with China-origin HRS or was made with an input other than HRS (*see* Appendix II to this notice). Because Hoa Phat was non-cooperative, it is not eligible to use the certification described above.[16]

Importers and exporters that claim that the entry of LWRPT is not subject to suspension of liquidation or the collection of cash deposits because the merchandise was not made with China-origin HRS or was made with an input other than HRS must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the applicable certification.

Certification Requirements for Vietnam

Importers are required to complete and maintain the applicable importer certification, and maintain a copy of the

[9] *See* the unpublished **Federal Register** notices, ''Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,'' and ''Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,'' dated concurrently with this notice.

[10] *See China Orders.*

[11] *See Light-Walled Rectangular Pipe and Tube from Mexico, the People's Republic of China, and the Republic of Korea: Antidumping Duty Orders; Light-Walled Rectangular Pipe and Tube from the Republic of Korea: Notice of Amended Final Determination of Sales at Less Than Fair Value,* 73 FR 45403 (August 5, 2008) (*Korea Order*); *Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan; Final Results of Antidumping Duty Administrative Review,* 57 FR 24464, 24466 (June 9, 1992) (*Taiwan Order*).

[12] *See Taiwan Order.*

[13] *See Korea Order.*

[14] *Id.*

[15] Hoa Phat is not eligible to participate in the certification program as either producer or exporter. In addition, other parties exporting pipe products produced by Hoa Phat will likewise not be eligible to participate in the certification program with regard to such products.

[16] *See Preliminary Determination* PDM at the ''Use of Facts Available with Adverse Inferences'' section; *see also, e.g., Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order,* 63 FR 18364, 18366 (April 15, 1998), unchanged in *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 63 FR 54672, 54675–76 (October 13, 1998).

applicable exporter certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit both the importer's certification and the exporter's certification to CBP as part of the entry process by uploading them into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, the importer should obtain the entry summary number from the broker. Agents of the importer, such as a broker, however, are not permitted to certify on behalf of the importer.

Exporters are required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (*e.g.,* invoice, purchase order, production records, *etc.*). With the exception of the entries described below, the exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the LWRPT that was manufactured in Vietnam to the United States.

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers and exporters are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all LWRPT from Vietnam that was entered, or withdrawn from warehouse, for consumption during the period August 4, 2022 (the date of initiation of this circumvention inquiry), through the date of publication of the *Preliminary Determination* in the **Federal Register**, where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should already be complete and signed.

For unliquidated entries (and entries for which liquidation has not become final) of LWRPT that were declared as non-AD/CVD type entries (*e.g.,* type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period August 4, 2022 (the date of initiation of these circumvention inquiries), through the date of publication of the *Preliminary Determination* in the **Federal Register**, for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD/CVD type entries to AD/CVD type entries (*e.g.,* type 01 to type 03). Importers should report those AD/CVD type entries using the third country CBP case numbers identified in the ''Suspension of Liquidation and Cash Deposit Requirements'' section, above. The importer should post cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties, including AD/CVD duties.

If it is determined that an importer or exporter has not met the certification and related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this country-wide affirmative determination of circumvention and the *Orders,*[17] all unliquidated entries for which these requirements were not met and require the importer to post applicable cash deposits equal to the rates noted above.

Opportunity To Request an Administrative Review

Each year during the anniversary month of the publication of an AD or CVD order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Act, may request, in accordance with 19 CFR 351.213, that Commerce conduct an administrative review of that AD or CVD order, finding, or suspended investigation. Interested parties who wish that Commerce conducts an administrative review should wait until Commerce announces via the **Federal Register** the next window during the anniversary month of the publication of the AD or CVD order to submit such requests. The anniversary month for these *Orders* is August.

Administrative Protective Order

This notice will serve as the only reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the 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 the terms of an APO is a sanctionable violation.

[17] *See Orders.*

Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.226(g)(2).

Dated: November 2, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

Appendix II

1. Certifications

Importer Certification

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY};

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of light-walled rectangular pipe and tube (LWRPT) produced in the Socialist Republic of Vietnam that entered under entry summary number(s), identified below, and are covered by this certification. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of LWRPT, including the exporter's and/or foreign seller's identity and location;

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The LWRPT covered by this certification was imported by {IMPORTING COMPANY} on behalf of {U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER};

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

D. The LWRPT covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. I have personal knowledge of the facts regarding the production of the imported products covered by this certification. ''Personal knowledge'' includes facts obtained from another party, (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the source of hot-rolled steel (HRS) or an input other than HRS used to produce the imported LWRPT);

F. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #:
Foreign Seller:
Foreign Seller's Address:
Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:
Country of Origin of HRS: State ''N/A'' for ''Country of Origin of HRS'' if the LWRPT covered by this certification was produced using inputs other than HRS.
Producer:
Producer's Address:

G. The LWRPT covered by this certification does not contain HRS produced in the People's Republic of China (China);

H. I understand that {IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, certificates of origin, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

I. I understand that {IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to the production and/or exportation of the imported merchandise identified above), and any supporting documentation provided to the importer by the exporter, until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries;

J. I understand that {IMPORTING COMPANY} is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, and a copy of the exporter's certification, and any supporting documentation provided to the importer by the exporter, upon request of either agency;

K. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

L. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping duty and countervailing duty orders on LWRPT from China. I understand that such finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

M. I understand that agents of the importer, such as brokers, are not permitted to make this certification;

N. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

O. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

Exporter Certification

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES}; located at {ADDRESS OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES};

B. I have direct personal knowledge of the facts regarding the production and exportation of the light-walled welded rectangular pipe and tube (LWRPT) for which sales are identified below. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location;

C. The LWRPT covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

D. The LWRPT covered by this certification does not contain HRS produced in the People's Republic of China (China);

E. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:
Foreign Seller's Invoice to U.S. Customer Line item #:
Producer Name:
Producer's Address:
Producer's Invoice # to Foreign Seller: (*If the foreign seller and the producer are the same party, put NA here.*)
Name of Producer of HRS: State ''N/A'' if the producer did not use HRS in the production of the LWRPT.
Location (Country) of Producer of HRS: State ''N/A'' if the producer did not use HRS in the production of LWRPT.

F. The LWRPT covered by this certification was shipped to {NAME OF U.S. PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

G. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

H. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon request of either agency;

I. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty and countervailing duty orders on LWRPT from China. I understand that such a finding will result in:

(i) suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the seller/exporter no longer being allowed to participate in the certification process.

K. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

L. This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the shipment date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**; and

M. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

[FR Doc. 2023–24796 Filed 11–8–23; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–910, C–570–911]

Circular Welded Carbon Quality Steel Pipe From the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that imports of circular welded carbon quality steel pipe (CWP), completed in the Socialist Republic of Vietnam (Vietnam) using hot-rolled steel (HRS) produced in the People's Republic of China (China), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CWP from China.

DATES: Applicable November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Krisha Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4037.

SUPPLEMENTARY INFORMATION:

Background

On July 22, 2008, Commerce published in the **Federal Register** the AD and CVD orders on CWP from China.[1] On August 4, 2022, Commerce initiated a country-wide circumvention inquiry to determine whether certain imports of CWP completed in Vietnam using HRS produced in China are circumventing the *Orders*.[2] On April 12, 2023, Commerce published in the **Federal Register** its *Preliminary Determination* that imports of CWP completed in Vietnam using HRS produced in China are circumventing the *Orders*.[3] On May 15, 2023, Commerce extended the deadline for the final determination of this circumvention inquiry to August 4, 2023.[4] On July 20, 2023, Commerce further extended the deadline for the final determination to November 2, 2023.[5] For a summary of events that occurred since Commerce published the *Preliminary Determination,* as well as a full discussion of the issues raised by parties for consideration in the final determination, *see* the Issues and Decision Memorandum.[6] The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *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.*

Scope of the Orders

The products covered by the *Orders* include certain welded carbon quality steel pipes and tubes, of circular cross-section, and with an outside diameter of 0.372 inches or more, but not more than 16 inches. For a full description of the scope of the *Orders, see* the Issues and Decision Memorandum.

Merchandise Subject to the Circumvention Inquiry

This circumvention inquiry covers CWP completed in Vietnam using China-origin HRS and subsequently

[1] *See Notice of Antidumping Duty Order: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* 73 FR 42547 (July 22, 2008); and *Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Notice of Amended Final Affirmative Countervailing Duty Determination and Notice of Countervailing Duty Order,* 73 FR 42545 (July 22, 2008) (collectively, *Orders* or *China Orders*).

[2] *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China; Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea; Certain Welded Carbon Steel Standard Pipes and Tubes from India; Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan; Certain Circular Welded Non-Alloy Steel Pipe from Taiwan; Light-Walled Rectangular Pipe and Tube from the People's Republic of China; Light-Walled Rectangular Pipe and Tube from the Republic of Korea; Light-Walled Welded Rectangular Carbon Steel Tubing from Taiwan: Initiation of Circumvention Inquiries on the Antidumping and Countervailing Duty Orders,* 87 FR 47711 (August 4, 2022).

[3] *See Circular Welded Carbon Quality Steel Pipe from the People's Republic of China: Preliminary Affirmative Determination of Circumvention of the Antidumping Duty and Countervailing Duty Order,* 88 FR 21975 (April 12, 2023) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

[4] *See* Memorandum, ''Extension of Deadline for Issuing Final Determinations in Circumvention Inquiries,'' dated May 15, 2023.

[5] *See* Memorandum, ''Extension of Deadline for Issuing Final Determinations in Circumvention Inquiries,'' dated July 20, 2023.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

exported from Vietnam to the United States (inquiry merchandise).

Methodology

Commerce is conducting this circumvention inquiry in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.226. *See* Preliminary Decision Memorandum for a full description of the methodology.[7] We have continued to apply this methodology, without exception, and incorporate by reference this description of the methodology, for our final determination.[8]

Determination of No Shipments

Based on the information provided by Vietnam Haiphong Hongyuan Machinery Manufactory Co., Ltd. (Vietnam Haiphong) in this circumvention inquiry, Commerce continues to find, as it did in the *Preliminary Determination,* that Vietnam Haiphong had no shipments of inquiry merchandise to the United States during the period of inquiry, January 1, 2017, through December 31, 2021.[9]

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this inquiry are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice at Appendix I.

Based on our analysis of the comments received from interested parties, we did not revise the *Preliminary Determination,* except for revisions to the certification language (*see* Appendix II), which we have modified in response to comments to allow parties to also use the certifications when their shipments of CWP were not produced using HRS.

Final Circumvention Determination

As detailed in the Issues and Decision Memorandum, Commerce determines that CWP completed in Vietnam using China-origin HRS and subsequently exported from Vietnam to the United States is circumventing the *Orders* on a country-wide basis. As a result, in accordance with section 781(b) of the Act, we determine that the inquiry merchandise should be included within the scope of the *Orders. See* the ''Suspension of Liquidation and Cash Deposit Requirements'' section, below, for details regarding suspension of liquidation and cash deposit requirements. *See* the ''Certifications'' and ''Certification Requirements for Vietnam'' sections, below, for details regarding the use of certifications.

Suspension of Liquidation and Cash Deposit Requirements

Based on the affirmative country-wide determination of circumvention for China, in accordance with 19 CFR 351.226(l)(3), we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation and require a cash deposit of estimated duties on unliquidated entries of CWP completed in Vietnam using China-origin HRS, that were entered, or withdrawn from warehouse, for consumption on or after August 4, 2022, the date of publication of the initiation of this circumvention inquiry in the **Federal Register**.

CWP produced in Vietnam from HRS that is not of Chinese origin is not subject to this inquiry. Therefore, cash deposits are not required for such merchandise under the *China Orders.* However, Commerce finds that certain welded carbon steel standard pipes and tubes (pipe and tube) completed in Vietnam using India-origin HRS is circumventing the AD order on pipe and tube from India, and CWP completed in Vietnam using the Republic of Korea (Korea)-origin HRS is circumventing the AD order on CWP from Korea.[10] Imports of such merchandise are subject to certification requirements, and cash deposits may be required.

If an importer imports CWP from Vietnam and claims that the CWP was not produced from China-origin HRS, or alternately, claims that the CWP was produced using an input other than HRS, the importer and exporter are required to meet the certification and documentation requirements described in the ''Certifications'' and ''Certification Requirements for Vietnam'' sections below in order to not be subject to the *China Orders* cash deposit requirements.

See Appendix II for the revised importer and exporter certifications, which we have modified in response to comments to allow parties to also use the certifications when their shipments of CWP were not produced using HRS.

Where no certification is provided for an entry, and AD/CVD orders from three countries (China, India or Korea) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate applicable to the AD and CVD orders on CWP from China (*i.e.,* the AD cash deposit rate established for the China-wide entity (85.55 percent) and the CVD cash deposit rate established for all-others (39.01 percent)) under the following third country CBP case numbers: A–552–009–000 and C–552–010–000.[11] This is to prevent evasion, given that the AD/CVD cash deposit rates established for CWP from China are higher than the AD cash deposit rates established for pipe and tube from India and CWP from Korea.

Where a certification is provided for the AD/CVD orders on CWP from China (stating that the merchandise was not produced using China-origin HRS or was produced using an input other than HRS), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate applicable to the *India Order* (*i.e.,* the AD cash deposit rate established for all-others (7.08 percent)) under the following third country CBP case number: A–552–012–000.[12] This is to prevent evasion, given that the AD cash deposit rate established for pipe and tube from India is higher than the AD cash deposit rate established for CWP from Korea.

Commerce established the following third country CBP case numbers in the Automated Commercial Environment (ACE) for entries of CWP produced in Vietnam using China-origin HRS: A–552–009–000 and C–552–010–000. Commerce established the following company-specific third country CBP case numbers for SeAH VINA, for which Commerce made an affirmative determination of circumvention, for entries of CWP produced in Vietnam using China-origin HRS: A–552–009–001 and C–552–010–001. The cash deposit rates will be the China-wide entity AD rate (*i.e.,* 85.55 percent) and the China CVD all-others rate (*i.e.,* 39.01 percent), respectively.[13]

These suspension of liquidation instructions will remain in effect until further notice.

Certified Entries

Entries for which the importer and exporter have met the certification requirements described below and in Appendix II to this notice will not be

[7] *See Preliminary Determination* PDM at 6–25.

[8] *See* Issues and Decision Memorandum at 5.

[9] *See Preliminary Determination* PDM at 13–14; *see also* Issues and Decision Memorandum at Comments 2 and 3.

[10] *See* the unpublished **Federal Register** notices, ''*Certain Welded Carbon Steel Standard Pipes and Tubes from India: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,*'' and ''*Certain Circular Welded Non-Alloy Steel Pipe from the Republic of Korea: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,*'' dated concurrently with this notice.

[11] *See Orders* or *China Orders.*

[12] *See Antidumping Duty Order; Certain Welded Carbon Steel Standard Pipes and Tubes from India,* 51 FR 17384 (May 12, 1986) (*India Order*).

[13] *See Orders* or *China Orders.*

subject to suspension of liquidation, or the cash deposit requirements described above. Failure to comply with the applicable requisite certification requirements may result in the merchandise being subject to AD and CVD duties.

Certifications

To administer the country-wide affirmative determination of circumvention for Vietnam, Commerce established importer and exporter certifications which allow companies to certify that specific entries of CWP from Vietnam are not subject to suspension of liquidation or the collection of cash deposits pursuant to this country-wide affirmative determination of circumvention because the merchandise was not made with China-origin HRS or was made with an input other than HRS (*see* Appendix II to this notice).

Importers and exporters that claim that the entry of CWP is not subject to suspension of liquidation or the collection of cash deposits because the merchandise was not made with China-origin HRS or was made with an input other than HRS must complete the applicable certification and meet the certification and documentation requirements described below, as well as the requirements identified in the applicable certification.

Certification Requirements for Vietnam

Importers are required to complete and maintain the applicable importer certification, and maintain a copy of the applicable exporter certification, and retain all supporting documentation for both certifications. With the exception of the entries described below, the importer certification must be completed, signed, and dated by the time the entry summary is filed for the relevant entry. The importer, or the importer's agent, must submit both the importer's certification and the exporter's certification to CBP as part of the entry process by uploading them into the document imaging system (DIS) in ACE. Where the importer uses a broker to facilitate the entry process, the importer should obtain the entry summary number from the broker. Agents of the importer, such as a broker, however, are not permitted to certify on behalf of the importer.

Exporters are required to complete and maintain the applicable exporter certification and provide the importer with a copy of that certification and all supporting documentation (*e.g.,* invoice, purchase order, production records, *etc.*). With the exception of the entries described below, the exporter certification must be completed, signed, and dated by the time of shipment of the relevant entries. The exporter certification should be completed by the party selling the CWP that was manufactured in Vietnam to the United States.

Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. Importers and exporters are required to maintain the certifications and supporting documentation until the later of: (1) the date that is five years after the latest entry date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries.

For all CWP from Vietnam that was entered, or withdrawn from warehouse, for consumption during the period August 4, 2022 (the date of initiation of this circumvention inquiry), through the date of publication of the *Preliminary Determination* in the **Federal Register**, where the entry has not been liquidated (and entries for which liquidation has not become final), the relevant certification should already be complete and signed.

For unliquidated entries (and entries for which liquidation has not become final) of CWP that were declared as non-AD/CVD type entries (*e.g.,* type 01) and entered, or withdrawn from warehouse, for consumption in the United States during the period August 4, 2022 (the date of initiation of these circumvention inquiries), through the date of publication of the *Preliminary Determination* in the **Federal Register**, for which none of the above certifications may be made, importers must file a Post Summary Correction with CBP, in accordance with CBP's regulations, regarding conversion of such entries from non-AD/CVD type entries to AD/CVD type entries (*e.g.,* type 01 to type 03). Importers should report those AD/CVD type entries using the third country CBP case numbers identified in the ''Suspension of Liquidation and Cash Deposit Requirements'' section, above. The importer should post cash deposits on those entries consistent with the regulations governing post summary corrections that require payment of additional duties, including AD/CVD duties.

If it is determined that an importer or exporter has not met the certification and related documentation requirements for certain entries, Commerce intends to instruct CBP to suspend, pursuant to this country-wide affirmative determination of circumvention and the *Orders,*[14] all unliquidated entries for which these requirements were not met and require the importer to post applicable cash deposits equal to the rates noted above.

Opportunity To Request an Administrative Review

Each year during the anniversary month of the publication of an AD or CVD order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Act, may request, in accordance with 19 CFR 351.213, that Commerce conduct an administrative review of that AD or CVD order, finding, or suspended investigation. An interested party who would like Commerce to conduct an administrative review should wait until Commerce announces via the **Federal Register** the next opportunity to request a review during the anniversary month of the publication of the AD or CVD order to submit such requests. The anniversary month for the AD and CVD *Orders* is May.

Administrative Protective Order

This notice will serve as the only reminder to all parties subject to administrative protective order (APO) of their responsibility concerning the 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 the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.226(g)(2).

Dated: November 2, 2023.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Issues and Decision Memorandum

[14] *See Orders.*

Appendix II

1. Certifications

Importer Certification

I hereby certify that:

A. My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY};

B. I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of circular welded carbon quality steel pipe (CWP) produced in Vietnam that entered under entry summary number(s), identified below, and are covered by this certification. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of CWP, including the exporter's and/or foreign seller's identity and location;

C. If the importer is acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

The CWP covered by this certification was imported by {IMPORTING COMPANY} on behalf of {U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER};

If the importer is not acting on behalf of the first U.S. customer, include the following sentence as paragraph C of this certification:

{NAME OF IMPORTING COMPANY} is not acting on behalf of the first U.S. customer.

D. The CWP covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM THE MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED}.

E. I have personal knowledge of the facts regarding the production of the imported products covered by this certification. ''Personal knowledge'' includes facts obtained from another party, (*e.g.,* correspondence received by the importer (or exporter) from the producer regarding the source of hot-rolled steel (HRS) or an input other than HRS used to produce the imported CWP);

F. This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:
Entry Summary Line Item #:
Foreign Seller:
Foreign Seller's Address:
Foreign Seller's Invoice #:
Foreign Seller's Invoice Line Item #:
Country of Origin of HRS: State ''N/A'' for ''Country of Origin of HRS'' if the CWP covered by this certification was produced using inputs other than HRS.
Producer:
Producer's Address:

G. The CWP covered by this certification does not contain HRS produced in China;

H. I understand that {IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, certificates of origin, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

I. I understand that {IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to the production and/or exportation of the imported merchandise identified above), and any supporting documentation provided to the importer by the exporter, until the later of: (1) the date that is five years after the date of the latest entry covered by the certification; or (2) the date that is three years after the conclusion of any litigation in United States courts regarding such entries;

J. I understand that {IMPORTING COMPANY} is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with the importer certification, and any supporting documentation, and a copy of the exporter's certification, and any supporting documentation provided to the importer by the exporter, upon request of either agency;

K. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

L. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping duty (AD) and countervailing duty (CVD) orders on CWP from China. I understand that such finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the importer no longer being allowed to participate in the certification process.

M. I understand that agents of the importer, such as brokers, are not permitted to make this certification;

N. This certification was completed and signed on, or prior to, the date of the entry summary if the entry date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the entry date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**.

O. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

Exporter Certification

The party that made the sale to the United States should fill out the exporter certification.

I hereby certify that:

A. My name is {COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES); located at {ADDRESS OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES);

B. I have direct personal knowledge of the facts regarding the production and exportation of the circular welded carbon quality steel pipe (CWP) for which sales are identified below. ''Direct personal knowledge'' refers to facts the certifying party is expected to have in its own records. For example, an exporter should have direct personal knowledge of the producer's identity and location;

C. The CWP covered by this certification was shipped to {NAME OF PARTY IN THE UNITED STATES TO WHOM MERCHANDISE WAS FIRST SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

D. The CWP covered by this certification does not contain HRS produced in China;

E. This certification applies to the following sales to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER} (repeat this block as many times as necessary):

Foreign Seller's Invoice # to U.S. Customer:
Foreign Seller's Invoice to U.S. Customer Line item #:

Producer Name:
Producer's Address:
Producer's Invoice # to Foreign Seller: (*If the foreign seller and the producer are the same party, put NA here.*)
Name of Producer of HRS: State ''N/A'' if the producer did not use HRS in the production of CWP.
Location (Country) of Producer of HRS: State ''N/A'' if the producer did not use HRS in the production of CWP.

F. The CWP covered by this certification was shipped to {NAME OF U.S. PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {U.S. ADDRESS TO WHICH MERCHANDISE WAS SHIPPED};

G. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.,* documents maintained in the normal course of business, or documents obtained by the certifying party, for example, product data sheets, mill test reports, productions records, invoices, *etc.*) until the later of: (1) the date that is five years after the latest date of the entries covered by the certification; or (2) the date that is three years after the conclusion of any litigation in the United States courts regarding such entries;

H. I understand that {NAME OF FOREIGN COMPANY THAT MADE THE SALE TO THE UNITED STATES} is required to provide the U.S. importer with a copy of this certification and is required to provide U.S. Customs and Border Protection (CBP) and/or the U.S. Department of Commerce (Commerce) with this certification, and any supporting documents, upon request of either agency;

I. I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;

J. I understand that failure to maintain the required certification and supporting documentation, or failure to substantiate the claims made herein, or not allowing CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all sales to which this certification applies are within the scope of the antidumping duty and countervailing duty orders on CWP from China. I understand that such a finding will result in:

(i) suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the importer being required to post the cash deposits determined by Commerce; and

(iii) the seller/exporter no longer being allowed to participate in the certification process.

K. I understand that agents of the seller/exporter, such as freight forwarding companies or brokers, are not permitted to make this certification.

L. This certification was completed and signed, and a copy of the certification was provided to the importer, on, or prior to, the date of shipment if the shipment date is more than 14 days after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**. If the shipment date is on or before the 14th day after the date of publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**, this certification was completed and signed, and a copy of the certification was provided to the importer, by no later than 45 days after publication of the notice of Commerce's preliminary determination of circumvention in the **Federal Register**; and

M. I am aware that U.S. law (including, but not limited to, 18 U.S.C. 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature
{NAME OF COMPANY OFFICIAL}
{TITLE OF COMPANY OFFICIAL}
{DATE}

[FR Doc. 2023–24806 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD501]

Fisheries of the U.S. Caribbean; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 84 Life History Data Webinar for U.S Caribbean Yellowtail Snapper and Stoplight Parrotfish.

SUMMARY: The SEDAR 84 assessment process of U.S. Caribbean yellowtail snapper and stoplight parrotfish will consist of a Data Workshop, and a series of assessment webinars, and a Review Workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 84 Life History Data webinar will be held December 1, 2023, from 9 a.m. to 1 p.m., Eastern Time.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julie A. Neer at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Julie A. Neer, SEDAR Coordinator; (843) 571–4366; email: *Julie.neer@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a multi-step process including: (1) Data Workshop, (2) A series of assessment webinars, and (3) A Review Workshop. The product of the Data Workshop is a report that compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The assessment webinars produce a report that describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The product of the Review Workshop is an Assessment Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, HMS Management Division, and Southeast Fisheries Science Center. Participants include data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and NGO's; International experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion during the Life History Data webinar are as follows:

Participants will discuss what life history data may be available for use in the assessment.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the

Council office (see **ADDRESSES**) at least 5 business days prior to each workshop.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: November 3, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–24768 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD511]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of web conference.

SUMMARY: The North Pacific Fishery Management Council (Council) Pacific Northwest Crab Industry Advisory Committee (PNCIAC) will hold a meeting.

DATES: The meeting will be held on Tuesday, November 28, 2023, from 9 a.m. to 11 a.m., Alaska time.

ADDRESSES: The meeting will be a web conference. Join online through the link at *https://meetings.npfmc.org/Meeting/Details/3021.*

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave, Anchorage, AK 99501–2252; telephone: (907) 271–2809. Instructions for attending the meeting via video conference are given under **SUPPLEMENTARY INFORMATION**, below.

FOR FURTHER INFORMATION CONTACT: Sarah Marrinan, Council staff; phone: (907) 271–2809; email: *sarah.marrinan@noaa.gov.* For technical support, please contact our admin Council staff, email: *npfmc.admin@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Agenda

Tuesday, November 28, 2023

The Committee will discuss several topics including: (a) NPFMC crab measures for December (facility use cap final action, C share final action; (b) Crab Rationalization Program Review; and (c) other business. The agenda is subject to change, and the latest version will be posted *https://meetings.npfmc.org/Meeting/Details/3021* prior to the meeting, along with meeting materials.

Connection Information

You can attend the meeting online using a computer, tablet, or smart phone, or by phone only. Connection information will be posted online at: *https://meetings.npfmc.org/Meeting/Details/3021.*

Public Comment

Public comment letters will be accepted and should be submitted electronically to *https://meetings.npfmc.org/Meeting/Details/3021.*

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

Dated: November 3, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–24767 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD440]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Ecosystem Workgroup (EWG) will hold an online meeting, which is open to the public.

DATES: The online meeting will be held Monday, December 4, 2023, from 11 a.m. to 2 p.m., Pacific Time or until business for the day is concluded.

ADDRESSES: This meeting will be held online. Specific meeting information, including directions on how to join the meeting and system requirements will be provided in the meeting announcement on the Pacific Council's website (see *www.pcouncil.org*). You may send an email to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*) or contact him at (503) 820–2412 for technical assistance.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Kit Dahl, Staff Officer, Pacific Council; telephone: (503) 820–2422.

SUPPLEMENTARY INFORMATION: The purpose of this online EWG meeting is to review Pacific Council guidance on further work on its Fishery Ecosystem Plan Initiative addressing the provision of ecosystem and climate information in its management processes. Based on this review, the EWG will consider what activities it wishes to develop further as part of this initiative. It will report its recommendations to the Pacific Council at its March 2024 meeting.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt (*kris.kleinschmidt@noaa.gov*; (503) 820–2412) at least 10 days prior to the meeting date.

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

Dated: November 3, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–24765 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XD504]

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meeting

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

ACTION: Notice of SEDAR 82 South Atlantic Gray Triggerfish Assessment Webinar 8.

SUMMARY: The SEDAR 82 assessment of the South Atlantic stock of gray triggerfish will consist of a data workshop, a series of assessment webinars, and a review workshop. See **SUPPLEMENTARY INFORMATION**.

DATES: The SEDAR 82 South Atlantic Gray Triggerfish Assessment Webinar 8

is scheduled for December 11, 2023, from 9 a.m. to 1 p.m., Eastern. The established times may be adjusted as necessary to accommodate the timely completion of discussion relevant to the assessment process. Such adjustments may result in the meeting being extended from or completed prior to the time established by this notice.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Registration for the webinar is available by contacting the SEDAR coordinator via email at *Meisha.Key@safmc.net.*

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Meisha Key, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366; email: *Meisha.Key@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the SEDAR 82 South Atlantic Gray Triggerfish Assessment Webinar 8 are as follows: Discuss any leftover data/modelling issues that were not cleared up during the data and assessment processes, answer any questions the analysts have, and determine if model development is complete.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the South Atlantic Fishery Management Council office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: November 3, 2023.

Rey Israel Marquez,

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

[FR Doc. 2023–24766 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Collaborative Hybrid-Generic Human Dimension of Use and Non-Use in Marine and Coastal Environments

AGENCY: National Oceanic & Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the information collection request to OMB for review and approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before January 8, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Dr. Danielle Schwarzmann, ONMS Chief Economist, 1315 East West Hwy, SSMC4, Silver Spring, MD 20910, 240–533–0706, *danielle.schwarzmann@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This is a request for a new information collection.

NOAA is developing an information collection to characterize, assess and research social and economic value and importance of natural and cultural resources in the Ocean and Great Lakes. This coordinated project will allow for consistent metrics of human use to be collected across the environments managed by NOAA. In order to fulfill the mandates of the following legislation, timely human use and socioeconomic data is required: the National Marine Sanctuaries Act; Coastal Zone Management Act; Digital Coast Act; Coral Reef Conservation Act; National Historic Preservation Act; and the Magnuson Stevens-Fishery Conservation and Management Act.

The purpose of this information collection is to obtain human dimensions information from users of marine areas, including individuals and households, businesses, local, State and Federal Governments, tribal and territorial governments, Tribal and Indigenous peoples, nonprofits and academic institutions.

Focusing on the Ocean and Great Lakes, data collected will quantify over

time and space visitation rates (frequency, duration, purpose, location), uses (commercial, recreational, cultural, science and education), how resources are used to support cultural heritage practices within the marine landscapes and ecosystems, and expenditures of users. Data will also be used to understand attitudes and perceptions of users and non-users of marine and coastal areas, and collect socioeconomic information of both users and non-users of marine and coastal areas.

The intended use of the information collected through this instrument is to fulfill the aforementioned mandates. Selected acts are highlighted here. Regarding the National Marine Sanctuary Act (NMSA), NOAA shall consider ''the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education.'' 16 U.S.C. 1433(b)(1). NOAA must also determine whether present and potential activities may adversely affect the area's qualities that contribute to its significance, the public benefits to be derived from sanctuary status, negative impacts produced by management restrictions on income-generating activities, socioeconomic effects of sanctuary designation, the area's scientific value, and the value for monitoring the sanctuary's resources. In developing a sanctuary's management plan, the NMSA requires NOAA to include, among other things, resource studies and appropriate strategies for managing sanctuary resources, including innovative management strategies, research, monitoring and assessment, and surveillance activities. 16 U.S.C. 1434(a)(2)(C).

The Coastal Zone Management Act (CZMA) establishes the national policy to ''preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone'' and to ''encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development.'' 16 U.S.C. 1452(1–2).

The Magnuson Stevens-Fishery Conservation and Management Act (MSA) governs marine fisheries management in U.S. Federal waters. Its objectives include increasing long-term economic and social benefits and ensuring a safe and sustainable supply of seafood. It states that, ''Conservation and management measures shall . . . take into account the importance of fishery resources to fishing communities by utilizing economic and social data in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.'' (16 U.S.C. 1851 (a) (8)).

The Digital Coast Act supports the coordination of activities across multiple legislation relevant to NOAA; ''The Secretary shall coordinate the activities carried out under the program to optimize data collection, sharing and integration, and to minimize duplication by . . . consulting with other Federal agencies, including interagency committees, on relevant Federal activities, including activities carried out under the Ocean and Coastal Mapping Integration Act (33 U.S.C. 3501 *et seq.*), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 *et seq.*), the Integrated Coastal and Ocean Observation System Act of 2009 (33 U.S.C. 3601 *et seq.*), and the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892 *et seq.*).'' 16 U.S.C.1467(c)(2). The Digital Coast Act, section 2, Findings, states that ''highly accurate, high-resolution remote sensing and other geospatial data play an increasingly important role in decision making and management of the coastal zone and economy . . .'' Public Law 116–223, sec. 2. The Act specifically calls for filling data needs and gaps for coastal management. Specifically, to ''continue improvement in existing efforts to coordinate the acquisition and integration of key data sets needed for coastal management and other purposes'' including ''socioeconomic and human use data.'' 16 U.S.C.1467(d)(3)(C).

The surveys will also characterize and assess reasons for non-use of the marine and coastal environment and identify barriers to access and opportunity which addresses the Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

Study data will be made available to the public (with personally identifiable information removed), and reports and papers will be published with study findings. Pursuant to conversations with NOAA, Department of Commerce, and the Office of Management and Budget, this request is being submitted as a Collaborative Hybrid-Generic collection.

II. Method of Collection

Information will be collected using the most efficient and effective methodology that is feasible in the individual marine protected area, region, or jurisdiction. It is expected that data collection methods will vary by site and may include in-person, phone, electronic (internet), and mail surveys.

III. Data

OMB Control Number: 0648–XXXX.
Form Number(s): None.
Type of Review: Regular submission—New Collection.
Affected Public: Individuals or households; Business or other for-profit organizations; Not-for-profit institutions; State, Local, or Tribal government; Federal Government.
Estimated Number of Respondents: 30,383.
Estimated Time per Response: Response times will vary depending on the instrument and mode of collection. Response times vary from 10 minutes to 60 minutes.
Estimated Total Annual Burden Hours: 7,689 hours.
Estimated Total Annual Cost to Public: We do not anticipate any costs to the public.
Respondent's Obligation: Voluntary.
Legal Authority: National Marine Sanctuaries Act, Digital Coast Act, Coastal Zone Management Act, Coral Reef Conservation Act, Maritime Heritage Protection Act & Magnuson Stevens-Fishery Conservation and Management Act.

IV. Request for Comments

We are soliciting public comments to permit the Department/Bureau to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the Department, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may

be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Under Secretary for Economic Affairs, Commerce Department.

[FR Doc. 2023–24852 Filed 11–8–23; 8:45 am]

BILLING CODE 3510–JE–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Deletions from the Procurement List.

SUMMARY: This action deletes product(s) from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Date added to and deleted from the Procurement List:* December 09, 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:

Deletions

On 10/3/2023, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from 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 relevant matter presented, the Committee has determined that the product(s) listed below are no longer 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 additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(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) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):

7510–01–600–8023—Dated 2023 12-Month 2-Sided Laminated Wall Planner, 24″ x 37″

7510–01–600–7581—Wall Calendar, Dated 2023, Wire Bound w/hanger, 15.5″ x 22″

7510–01–600–7588—Monthly Wall Calendar, Dated 2023, Jan–Dec, 8½″ x 11″

7510–01–600–7634—Wall Calendar, Dated 2023, Wire Bound w/Hanger, 12″ x 17″

7510–01–682–8100—Wall Calendar, Recycled, Dated 2023, Vertical, 3 Months, 12¼″ x 26″

7510–01–682–8093—Monthly Planner, Recycled, Dated 2023, 14-month, 6⅞″ x 8¾″

7510–01–682–8112—Professional Planner, Dated 2023, Recycled, Weekly, Black, 8½″ x 11″

7530–01–600–7580—Daily Desk Planner, Dated 2023, Wire bound, Non-refillable, Black Cover

7530–01–600–7606—Monthly Desk Planner, Dated 2023, Wire Bound, Non-refillable, Black Cover

7530–01–600–7615—Weekly Desk Planner, Dated 2023, Wire Bound, Non-refillable, Black Cover

7530–01–600–7626—Weekly Planner Book, Dated 2023, 5″ x 8″, Black

Designated Source of Supply: Chicago Lighthouse Industries, Chicago, IL

Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2023–24790 Filed 11–8–23; 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) 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: December 09, 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) are proposed for deletion from the Procurement List:

Product(s)

NSN(s)—Product Name(s):

7510–01–579–9319—Binder, Removable Slant-D Rings, 100% Recyclable, Turned Edge, Black, 3″ Capacity, Letter

7510–01–579–9325—Binder, Removable Slant-D Rings, 100% Recyclable, Turned Edge, Blue, 3″ Capacity, Letter

7510–01–579–9324—Binder, Removable Slant-D Rings, 100% Recyclable, Turned Edge, Blue, 2″ Capacity, Letter

7510–01–579–9317—Binder, Removable Slant-D Rings, 100% Recyclable, Turned Edge, Black, 2″ Capacity, Letter

Designated Source of Supply: South Texas Lighthouse for the Blind, Corpus Christi, TX

Contracting Activity: STRATEGIC ACQUISITION CENTER, FREDERICKSBURG, VA

NSN(s)—Product Name(s):

7510–01–579–9319—Binder, Removable Slant-D Rings, 100% Recyclable, Turned Edge, Black, 3″ Capacity, Letter

7510–01–579–9325—Binder, Removable Slant-D Rings, 100% Recyclable, Turned Edge, Blue, 3″ Capacity, Letter

7510–01–579–9324—Binder, Removable Slant-D Rings, 100% Recyclable, Turned Edge, Blue, 2″ Capacity, Letter

7510–01–579–9317—Binder, Removable Slant-D Rings, 100% Recyclable, Turned Edge, Black, 2″ Capacity, Letter

Designated Source of Supply: South Texas Lighthouse for the Blind, Corpus Christi, TX

Contracting Activity: GSA/FAS ADMIN SVCS ACQUISITION BR(2, NEW YORK, NY

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2023–24789 Filed 11–8–23; 8:45 am]

BILLING CODE 6353–01–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 9:00 a.m. EST, Friday, November 17, 2023.

PLACE: Virtual meeting.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Examinations and enforcement matters. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.cftc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: November 7, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023–24903 Filed 11–7–23; 11:15 am]

BILLING CODE 6351–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0151]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Charter Online Management and Performance System (COMPS) Developer Annual Performance Report

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing a new information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before December 11, 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 Stephanie Jones, (202) 453–7498.

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: Charter Online Management and Performance System (COMPS) Developer Annual Performance Report.

OMB Control Number: 1810–NEW.

Type of Review: New ICR.

Respondents/Affected Public: State, local, and Tribal governments.

Total Estimated Number of Annual Responses: 80.

Total Estimated Number of Annual Burden Hours: 2,000.

Abstract: This request is for a new OMB approval to collect the Annual Performance Report (APR) data from Charter School Programs (CSP) Developer grantees. The Charter School Programs (CSP) was originally authorized under title V, part B, subpart 1, sections 5201 through 5211 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind (NCLB) Act of 2001. For fiscal year 2017 and thereafter, ESEA has been amended by the Every Student Succeeds Act (ESSA), (20 U.S.C. 7221–7221i), which reserves funds to improve education by supporting innovation in public education and to: (1) provide financial assistance for the planning, program design, and initial implementation of charter schools; (2) increase the number of high-quality charter schools available to students across the United States; (3) evaluate the impact of charter schools on student achievement, families, and communities, and share best practices between charter schools and other public schools; (4) encourage States to provide support to charter schools for facilities financing in an amount more nearly commensurate to the amount States typically provide for traditional public schools; (5) expand opportunities for children with disabilities, English learners, and other traditionally underserved students to attend charter schools and meet the challenging State academic standards; (6) support efforts to strengthen the charter school authorizing process to improve performance management, including transparency, oversight and monitoring (including financial audits), and evaluation of such schools; and (7) support quality, accountability, and transparency in the operational performance of all authorized public chartering agencies, including State educational agencies, local educational agencies, and other authorizing entities.

The U.S. Department of Education (ED) is requesting authorization to collect data from CSP grantees within the Developer program through a new online platform. In 2022, ED began development of a new data collection system, the Charter Online Management and Performance System (COMPS), designed specifically to reduce the burden of reporting for users and increase validity of the overall data. This new collection consists of questions responsive to the actions established in the program's final rule published in the **Federal Register** on July 6, 2022, as well as the Developer program Notice Inviting Applications (NIA). This collection request is a consolidation of all previously established program data collection efforts and provides a more comprehensive representation of grantee performance.

Dated: November 2, 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. 2023–24655 Filed 11–8–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC24–1–000]

Commission Information Collection Activities (FERC Form Nos. 2 and 2–A; Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC Form No. 2 (Annual Report for Major Natural Gas Companies) and FERC Form No. 2–A (Annual Report for Non-Major Natural Gas Companies).

DATES: Comments on the collection of information are due January 8, 2024.

ADDRESSES: You may submit your comments (identified by Docket No. IC24–01–000) by one of the following methods:

Electronic filing through *https://www.ferc.gov,* is preferred.

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

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

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

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *https://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *https://www.ferc.gov.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC Form No. 2, Annual Report for Major Natural Gas Companies; OMB Control No. 1902–0028.

FERC Form No. 2–A, Annual Report for Non-Major Natural Gas Companies; OMB Control No. 1902–0030.

OMB Control No.: 1902–0028, 1902–0030.

Type of Request: Three-year extension of the FERC Form No. 2 and FERC Form No. 2–A information collection requirements without a change to the current reporting and recordkeeping requirements.

Abstract: Pursuant to sections 8, 10 and 14 of the Natural Gas Act (NGA), (15 U.S.C. 717g–717m), the Commission is authorized to conduct investigations and collect and record data, and to prescribe rules and regulations concerning accounts, records and memoranda as necessary or appropriate for purposes of administering the NGA. The Commission may prescribe a system of accounts for jurisdictional companies and, after notice and opportunity for hearing, may determine the accounts in which particular outlays and receipts will be entered, charged or credited.

The Commission collects FERC Form Nos. 2 and 2–A information as prescribed in 18 CFR 260.1 and 18 CFR 260.2. These forms provide information concerning a company's current performance, compiled using the Commission's Uniform System of Account (USoA).[1] FERC Form No. 2 is filed by ''Major'' natural gas companies that have combined natural gas transported or stored for a fee that exceeds 50 million Dekatherms in each of the three previous calendar years. FERC Form No. 2–A is filed by ''Non-Major'' natural gas companies that do not meet the filing threshold for the FERC Form No. 2, but have total gas sales or volume transactions that exceeds 200,000 Dekatherms in each of the three previous calendar years.

The forms provide information concerning a company's financial and operational information. The forms contain schedules which include a basic set of financial statements: Comparative Balance Sheet, Statement of Income and Retained Earnings, Statement of Cash Flows, and the Statement of Comprehensive Income and Hedging Activities. Supporting schedules containing supplementary information are filed, including revenues and the related quantities of products sold or transported; account balances for various operating and maintenance expenses; selected plant cost data; and other information.

The information collected assists the Commission in the administration of its jurisdictional responsibilities and is used by Commission staff, state regulatory agencies, customers, financial analysts and others in the review of the financial condition of regulated companies. The information is also used in various rate proceedings, industry analyses and in the Commission's audit programs and as appropriate, for the computation of annual charges. The information is made available to the public, interveners and all interested parties to assist in the proceedings before the Commission. For financial information to be useful to the Commission, it must be understandable, relevant, reliable and timely. The Form Nos. 2 and 2–A financial statements are prepared in accordance with the Commission's USofA and related regulations, and provide data that enables the Commission to develop and monitor cost-based rates, analyze costs of different services and classes of assets, and compare costs across lines of business. The use of the USofA permits natural gas companies to account for similar transactions and events in a consistent manner, and to communicate those results to the Commission on a periodic basis. Comparability of data and financial statement analysis for a particular entity from one period to the next, or between entities, within the same industry, would be difficult to achieve if each company maintained its own accounting records using dissimilar accounting methods and classifications to record similar transactions and events. In summary, without the information collected in the forms, it would be difficult for the Commission to ensure, as required by the NGA, that a pipeline's rates remain just and reasonable, respond to Congressional and outside inquires, and make decisions in a timely manner.

Type of Respondent: Major and Non-Major Natural Gas Companies.

Estimate of Annual Burden:[2] The Commission estimates the annual public reporting burden and cost[3] for the

[1] *See* 18 CFR part 201 (Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act).

[2] Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

[3] The Commission staff believes the FERC FTE (full-time equivalent) average cost for wages plus benefits is representative of the corresponding cost for the industry respondents. Based upon the

Continued

information collection as shown in the following table:

RENEWAL FOR FERC FORM 2 AND 2A

Information collection (FERC form No.)	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1) * (2) = (3)	Average burden & cost per response (4)	Total annual burden hours & cost (3) * (4) = (5)	Annual cost per respondent ($) (5) ÷ (1) [4]
2	100	1	100	1,671.66 hrs.; $160,479.36.	167,166 hrs.; $16,047,936.	$160,479,36
2–A	81	1	81	296 hrs.; $28,416 ..	23,976 hrs.; $2,301,696.	$28,416

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: November 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–24832 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15319–000]

Jupiter Pumped Storage 1, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On July 12, 2023, Jupiter Pumped Storage 1, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Mineral Run Pumped Storage Project (Mineral Run Project or project) to be located in Cambria County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed Mineral Run Project would consist of the following: (1) a new 9,400-foot-long, 85-foot-high rock-filled embankment dike forming an upper reservoir having a surface area of 120 acres and a total storage capacity of approximately 9,840 acre-feet at a normal maximum water surface elevation of 2,282 feet above mean sea level (msl); (2) a new 15,200-foot-long, 85-foot-high rock-filled embankment dike forming a lower reservoir having a total storage capacity of approximately 9,840 acre-feet at a normal maximum water surface elevation of 2,062 feet msl; (3) a 32-foot-diameter, 100-foot-long vertical tunnel and a 32-foot-diameter, 4,500-foot-long horizontal tunnel and/or penstock connecting the upper and lower reservoirs; (4) a 120-foot-wide, 600-foot-long powerhouse containing six reversible turbine-generator units with a total rated capacity of 208 megawatts; (5) a new pump station along the eastern bank of Saltlick Run to convey water through a 1,300-foot-long, 2-foot-diameter steel conduit to the lower reservoir; (6) a 1.7-mile-long, 230-kilovolt transmission line connecting the project to an existing substation; and (7) appurtenant facilities. Initial fill and make-up water for the project would come from Saltlick Run. The proposed project would have an annual generation of 607,000 megawatt-hours.

Applicant Contact: Nate Sandvig, Rye Development, LLC, 830 NE Holladay Street, Portland, OR 97232; phone: 503–309–2496.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–15319–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–15319) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 2, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–24733 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

FERC's 2023 average cost for salary plus benefits, the average hourly cost is $96/hour.

[4] Every figure in this column is rounded to the nearest dollar.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas and Oil Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR24–6–000.
Applicants: Hope Gas, Inc.
Description: § 284.123(g) Rate Filing: HGI—2023 PREP Filing to be effective 11/1/2023.
Filed Date: 11/3/23.
Accession Number: 20231103–5025.
Comment Date: 5 p.m. ET 11/24/23.
Protest Date: 5 p.m. ET 1/02/24.

Docket Numbers: RP24–142–000.
Applicants: NEXUS Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—DTE Gas contract 860003 eff 11–1–23 to be effective 11/1/2023.
Filed Date: 11/3/23.
Accession Number: 20231103–5013.
Comment Date: 5 p.m. ET 11/15/23.

Docket Numbers: RP24–143–000.
Applicants: Transcontinental Gas Pipe Line Company, LLC.
Description: Compliance filing: Rate Schedule S–2 OFO Refund Report November 2023 to be effective N/A.
Filed Date: 11/3/23.
Accession Number: 20231103–5044.
Comment Date: 5 p.m. ET 11/15/23.

Docket Numbers: RP24–144–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: TCO-Vitol NR Agmts 289490 and 289491, Eff. 11.3.23 to be effective 11/3/2023.
Filed Date: 11/3/23.
Accession Number: 20231103–5092.
Comment Date: 5 p.m. ET 11/15/23.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/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.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: November 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–24833 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15318–000]

Cabin Run Pumped Storage, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On July 12, 2023, Cabin Run Pumped Storage, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Cabin Run Pumped Storage Project to be located near the Stony River and unincorporated community of Bismarck in Tucker and Grant Counties, West Virginia. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) a 8,700-foot-long, 80-foot-high rock-fill embankment dike creating an upper reservoir with a 60-acre surface area and a 4,800-acre-foot storage capacity at a normal maximum water surface elevation of 4,030 feet above mean sea level (msl); (2) a 7,200-foot-long, 80-foot-high rock-fill embankment dike enclosing a lower reservoir with a 60-acre surface area and a 4,800-acre-foot storage capacity at a normal maximum water surface elevation of 3,530 feet msl; (3) a 400-foot-long, 24-foot-diameter vertical power tunnel/shaft connecting a 4,650-foot-long, 24-foot-diameter horizontal power tunnel to the powerhouse; (4) a 550-foot-long, 120-foot-wide, 100-foot-high powerhouse housing four 57.5-megawatt (MW) reversible Francis pumping-generating units with a total installed capacity of 230 MW; (5) a 4.5-mile-long, 230-kilovolt transmission line from a proposed substation near the powerhouse to an interconnection point; (6) a substation including two 120 megavolt amperes generator step-up units; (7) a 20-foot-long, 20-foot-wide, 15-foot-high concrete pump station on the south bank of the Stony River (upper end of Mount Storm Lake), capable of conveying water at 50 cubic feet per second through a 3,400-foot-long, 2-foot-diamenter steel conduit to the lower reservoir for fill or refill purposes; and (8) appurtenant facilities. The proposed project would have an annual generation of 671,000 megawatt-hours.

Applicant Contact: Nate Sandvig, Rye Development, LLC, 830 NE Holladay St., Portland, OR 97232; email: *nathan@ryedevelopment.com;* phone: (503) 309–2496.

FERC Contact: Woohee Choi; email: *woohee.choi@ferc.gov;* phone: (202) 502–6336.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *https://ferconline.ferc.gov/eFiling.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory

Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–15318–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–15318) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: November 2, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–24734 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–266–000]

Solar of Alamosa LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Solar of Alamosa LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 22, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: November 2, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–24738 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas and Oil Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–130–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: TCO–MXP Negotiated Rate Agreements Eff. 11.1.23 to be effective 11/1/2023.
Filed Date: 11/1/23.
Accession Number: 20231101–5167.
Comment Date: 5 p.m. ET 11/13/23.

Docket Numbers: RP24–131–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: 2023 Fuel Tracker Filing to be effective 4/1/2024.
Filed Date: 11/1/23.
Accession Number: 20231101–5174.
Comment Date: 5 p.m. ET 11/13/23.

Docket Numbers: RP24–132–000.
Applicants: Algonquin Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates—Amended Excelerate 510850 eff 11–1–23 to be effective 11/1/2023.
Filed Date: 11/1/23.
Accession Number: 20231101–5179.
Comment Date: 5 p.m. ET 11/13/23.

Docket Numbers: RP24–133–000.
Applicants: Gulf South Pipeline Company, LLC.
Description: § 4(d) Rate Filing: Implement Electric Power Cost Tracker to be effective 4/1/2024.
Filed Date: 11/1/23.
Accession Number: 20231101–5181.
Comment Date: 5 p.m. ET 11/13/23.

Docket Numbers: RP24–134–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Conoco Nov 2023) to be effective 11/2/2023.
Filed Date: 11/1/23.
Accession Number: 20231101–5182.
Comment Date: 5 p.m. ET 11/13/23.

Docket Numbers: RP24–135–000.
Applicants: Texas Eastern Transmission, LP.
Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 11–1–23 to be effective 11/1/2023.
Filed Date: 11/1/23.
Accession Number: 20231101–5189.
Comment Date: 5 p.m. ET 11/13/23.

Docket Numbers: RP24–136–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: TCO Negotiated Rate Agreements Eff. 11.1.23 to be effective 11/1/2023.
Filed Date: 11/1/23.
Accession Number: 20231101–5190.
Comment Date: 5 p.m. ET 11/13/23.

Docket Numbers: RP24–137–000.

Applicants: ANR Pipeline Company.
Description: § 4(d) Rate Filing: ANR Nov. 1 Negotiated Rate Agreements to be effective 11/1/2023.
Filed Date: 11/1/23.
Accession Number: 20231101–5200.
Comment Date: 5 p.m. ET 11/13/23.
Docket Numbers: RP24–138–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: § 4(d) Rate Filing: TPC 2023–11–01 Negotiated Rate Agreement to be effective 11/1/2023.
Filed Date: 11/1/23.
Accession Number: 20231101–5208.
Comment Date: 5 p.m. ET 11/13/23.
Docket Numbers: RP24–139–000.
Applicants: Rover Pipeline LLC.
Description: § 4(d) Rate Filing: Summary of Negotiated Rate Capacity Release Agreements 11–1–2023 to be effective 11/1/2023.
Filed Date: 11/1/23.
Accession Number: 20231101–5213.
Comment Date: 5 p.m. ET 11/13/23.
Docket Numbers: RP24–140–000.
Applicants: Portland Natural Gas Transmission System.
Description: § 4(d) Rate Filing: Castleton Negotiated Rate Agreement #287978 to be effective 11/1/2023.
Filed Date: 11/1/23.
Accession Number: 20231101–5227.
Comment Date: 5 p.m. ET 11/13/23.
Docket Numbers: RP24–141–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreement—11/01/2023 to be effective 11/1/2023.
Filed Date: 11/2/23.
Accession Number: 20231102–5000.
Comment Date: 5 p.m. ET 11/14/23.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/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.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: November 2, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–24741 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2570–034]

Eagle Creek Racine Hydro, LLC; Notice of Availability of Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for a new license to continue to operate and maintain the Racine Hydroelectric Project (project). The project is located on the Ohio River in Meigs County, Ohio. Commission staff has prepared an Environmental Assessment (EA) for the project.

The EA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA via the internet through the Commission's Home Page (*http://www.ferc.gov/*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Any comments should be filed within 45 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2570–034.

For further information, contact Jay Summers at 202–502–8764 or *jay.summers@ferc.gov.*

Dated: November 2, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–24735 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–910–003.

Applicants: Rockland Electric Company, PJM Interconnection, L.L.C.
Description: Compliance filing: Rockland Electric Company submits tariff filing per 35: Rockland Electric Company Compliance Filing in ER22–910 to be effective 8/30/2022.
Filed Date: 11/3/23.
Accession Number: 20231103–5136.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER23–2171–001.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: Tariff Amendment: Limited Amendment and Supplement to Formula Rate Filing to be effective 1/1/2024.
Filed Date: 11/3/23.
Accession Number: 20231103–5001.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER23–2359–003.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Amendment to ISA/CSA SA Nos. 6967 & 6968; Queue AD2–100/131-Docket No. ER23–2359 to be effective 9/6/2023.
Filed Date: 11/3/23.
Accession Number: 20231103–5080.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER23–2597–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Response to Commission's 10/4/23 Deficiency Letter in ER23–2597 to be effective 7/10/2023.
Filed Date: 11/3/23.
Accession Number: 20231103–5161.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–325–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: SA 767 9th Rev—NITSA with Basin Electric Power Cooperative to be effective 11/3/2023.
Filed Date: 11/3/23.
Accession Number: 20231103–5000.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–326–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 5797; Queue No. AC1–034 to be effective 1/2/2024.
Filed Date: 11/3/23.
Accession Number: 20231103–5028.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–327–000.
Applicants: Long Lake Solar, LLC.
Description: Request for Limited and Prospective Tariff Waiver, et al. of Long Lake Solar, LLC.
Filed Date: 10/31/23.
Accession Number: 20231031–5377.
Comment Date: 5 p.m. ET 11/21/23.

Docket Numbers: ER24–328–000.
Applicants: Dominion Energy South Carolina, Inc.
Description: § 205(d) Rate Filing: Concurrence Dynamic Scheduling Agreement to be effective 1/1/2024.
Filed Date: 11/3/23.
Accession Number: 20231103–5050.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–329–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Initial Filing of Service Agreement FERC No. 916 to be effective 1/2/2024.
Filed Date: 11/3/23.
Accession Number: 20231103–5089.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–330–000.
Applicants: Arizona Public Service Company.
Description: Compliance filing: FERC Order No. 2023—Compliance Filing to be effective 12/4/2023.
Filed Date: 11/3/23.
Accession Number: 20231103–5090
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–331–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 7125; Queue No. AE2–195 to be effective 10/6/2023.
Filed Date: 11/3/23.
Accession Number: 20231103–5095.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–332–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: Carters Ford Solar LGIA Filing to be effective 10/23/2023.
Filed Date: 11/3/23.
Accession Number: 20231103–5101.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–333–000.
Applicants: Oak Solar, LLC.
Description: Baseline eTariff Filing: Application for Market Based Rate to be effective 12/15/2023.
Filed Date: 11/3/23.
Accession Number: 20231103–5108.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–334–000.
Applicants: Oak Lessee, LLC.
Description: Baseline eTariff Filing: Application for Market Base Rate to be effective 12/15/2023.
Filed Date: 11/3/23.
Accession Number: 20231103–5110.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–335–000.
Applicants: ATNV Energy, LP.
Description: Baseline eTariff Filing: Baseline new to be effective 1/2/2024.
Filed Date: 11/3/23.
Accession Number: 20231103–5122.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–336–000.
Applicants: Tucson Electric Power Company.
Description: § 205(d) Rate Filing: Service Agreement No. 535, Large Generator Interconnection Agreement to be effective 10/6/2023.
Filed Date: 11/3/23.
Accession Number: 20231103–5140.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–337–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original NSA, Service Agreement No. 7124; Queue No. AE2–230/AF1–291A/AF2–075 to be effective 1/3/2024.
Filed Date: 11/3/23.
Accession Number: 20231103–5152.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–338–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2023–11–03_Revisions to credit provisions for Bankruptcy Code requirements to be effective 1/3/2024.
Filed Date: 11/3/23.
Accession Number: 20231103–5154.
Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–339–000.
Applicants: ISO New England Inc., New England Power Pool Participants Committee
Description: § 205(d) Rate Filing: ISO New England Inc. submits tariff filing per 35.13(a)(2)(iii: Changes to Delay 19th Forward Capacity Auction and Related Market Activities to be effective 1/2/2024.
Filed Date: 11/3/23.
Accession Number: 20231103–5158.
Comment Date: 5 p.m. ET 11/24/23.

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, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests,

service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: November 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–24836 Filed 11–8–23; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–166–001.

Applicants: Sun Streams Expansion, LLC.

Description: Tariff Amendment: Amended and Restated LGIA Co-Tenancy Agreement to be effective 10/21/2023.

Filed Date: 11/2/23.

Accession Number: 20231102–5067.

Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–167–001.

Applicants: Sun Pond, LLC.

Description: Tariff Amendment: Amended Certificate of Concurrence to be effective 10/21/2023.

Filed Date: 11/2/23.

Accession Number: 20231102–5070.

Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–217–000.

Applicants: NorthWestern Corporation.

Description: Supplement to October 26, 2023 NorthWestern Corporation tariff filing.

Filed Date: 10/27/23.

Accession Number: 20231027–5301.

Comment Date: 5 p.m. ET 11/17/23.

Docket Numbers: ER24–317–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3914 Mother Road Solar Energy Surplus GIA Cancellation to be effective 3/26/2023.

Filed Date: 11/2/23.

Accession Number: 20231102–5047.

Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–318–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2023–11–02_SA 3239 MEC-Wisconsin Power and Light 3rd Rev GIA (J534) to be effective 10/26/2023.

Filed Date: 11/2/23.

Accession Number: 20231102–5061.

Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–319–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Ministerial Clean-Up Filing, Schedule 12-Appendix and Schedule 12-Appendix A to be effective 2/1/2023.

Filed Date: 11/2/23.

Accession Number: 20231102–5066.

Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–320–000.

Applicants: Idaho Power Company.

Description: § 205(d) Rate Filing: NITSA—Second Revised Service Agreement No. 334 to be effective 1/1/2024.

Filed Date: 11/2/23.

Accession Number: 20231102–5098.

Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–321–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to Sch. 12-Appx A: October 2023 RTEP, 30-Day Comment Period Requested to be effective 1/31/2024.

Filed Date: 11/2/23.

Accession Number: 20231102–5110.

Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–322–000.

Applicants: FirstEnergy Service Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: FirstEnergy Service Company submits tariff filing per 35.13(a)(2)(iii: FirstEnergy submits Operating and Interconnection Agreement, SA No. 2853 to be effective 1/2/2024.

Filed Date: 11/2/23.

Accession Number: 20231102–5113.

Comment Date: 5 p.m. ET 11/24/23.

Docket Numbers: ER24–323–000.

Applicants: Clearwater Energy Resources LLC.

Description: § 205(d) Rate Filing: Amended Shared Interconnection Rights Agreement to be effective 10/30/2023.

Filed Date: 11/2/23.

Accession Number: 20231102–5133.

Comment Date: 5 p.m. ET 11/24/23.

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, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: November 2, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–24742 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–255–000]

CPV Stagecoach Solar, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of CPV Stagecoach Solar, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal

Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 22, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: November 2, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–24737 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–129–000]

Corpus Christi Liquefaction, LLC, CCL Midscale 8–9, LLC; Notice of Schedule for the Preparation of an Environmental Assessment for the Corpus Christi Liquefaction Midscale Trains 8 & 9 Project

On March 30, 2023, Corpus Christi Liquefaction, LLC and CCL Midscale 8–9, LLC (collectively referred to as CCL) filed an application in Docket No. CP23–129–000 requesting Authorization pursuant to Section 3 of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The proposed project is known as the Corpus Christi Liquefaction Midscale Trains 8 & 9 Project (Project) and would expand CCL's existing terminal production capabilities. The proposed Trains 8 & 9 together would be capable of liquefying up to approximately 170 Billion cubic feet per year (Bcf/y) of natural gas for export.

On April 13, 2023, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing Federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a Federal authorization within 90 days of the date of issuance of the Commission staff's environmental document for the Project.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the Project and the planned schedule for the completion of the environmental review.[1]

Schedule for Environmental Review

Issuance of EA	March 15, 2024
90-day Federal Authorization Decision Deadline[2]	June 13, 2024

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

CCL plans to construct and operate two midscale liquification trains; on-site refrigerant storage, end flash, and boil-off gas facilities; and proposes an increase in the authorized loading rate of liquified natural gas ship carriers in San Patricio and Nueces Counties, Texas. The Project facilities would be interconnected with the existing Liquefaction Project and Stage 3 Project facilities (authorized under Docket Nos. CP12–507–000 and CP18–512–000, respectively, and collectively referred to as CCL Terminal), which would require minor modifications for purposes of interconnection and integration of the expansion facilities. The Project would require the use of 1,395 acres of land within the CCL Terminal property.

Background

On November 10, 2022, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Planned Corpus Christi Liquefaction Midscale Trains 8 & 9 Project and Notice of Public Scoping Session* (Notice of Scoping). The Notice of Scoping, issued during the pre-filing review of the Project in Docket No. PF22–10–000, was sent to affected landowners; Federal, State, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the Notice of Scoping and Notice of Application, the Commission received comments from the U.S. Environmental Protection Agency, Texas Parks and Wildlife Service, National Oceanic and Atmospheric Administration, Texas Commission on Environmental Quality, non-governmental organizations, and individuals. The primary issues raised by the commenters are permitting, outreach, vessel traffic, shoreline erosion, socioeconomics, environmental justice, air quality, water resources, aquatic resources, safety, and

[1] 40 CFR 1501.10 (2020).

[2] The Commission's deadline applies to the decisions of other Federal agencies, and State agencies acting under federally delegated authority, that are responsible for Federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by Federal law.

cumulative impacts. All substantive comments will be addressed in the EA.

U.S. Department of Energy, U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration, and U.S. Coast Guard are cooperating agencies in the preparation of the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

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Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP23–129), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: November 3, 2023.

Kimberly D. Bose,

Secretary.

[FR Doc. 2023–24838 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP24–11–000]

Columbia Gas Transmission, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on October 23, 2023, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700, filed in the above referenced docket, a prior notice request pursuant to section 157.216 of the Commission's regulations under the Natural Gas Act (NGA), and Columbia's blanket certificate issued in Docket No. CP83–76–000, for authorization to abandon by sale, five injection/withdrawal (I/W) wells (Donegal Wells) located in its Donegal Storage Field. All of the above facilities are located in Washington County, Pennsylvania (Donegal Storage Field Wells Abandonment Project). The project will allow Columbia to abandon the Donegal Wells due to coal mining operations currently being developed within the Donegal Storage Field boundary, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room. For assistance, contact the Federal Energy Regulatory Commission at *FercOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TTY (202) 502–8659.

Any questions concerning this request should be directed to David A. Alonzo, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700 at (832) 320–5477 or email at *david_alonzo@tcenergy.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on January 2, 2024. How to file protests, motions to intervene, and comments is explained below.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is January 2, 2024. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[3] 18 CFR 157.205(e).

Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is January 2, 2024. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before January 2, 2024. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP24–11–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [6]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP24–11–000.

To file via USPS: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426

To file via any other method: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: David A. Alonzo, Manager, Project Authorizations, 700 Louisiana Street, Suite 1300, Houston, Texas 77002–2700 at (832) 320–5477, or at *david_alonzo@tcenergy.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

[6] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

Dated: November 2, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–24740 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER24–311–000]

Condor Energy Storage, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Condor Energy Storage, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is November 22, 2023.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal**

Register, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: November 2, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–24736 Filed 11–8–23; 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 exempt wholesale generator filings:

Docket Numbers: EG24–26–000.

Applicants: Babbitt Ranch Energy Center, LLC.

Description: Babbitt Ranch Energy Center, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 11/1/23.

Accession Number: 20231101–5218.

Comment Date: 5 p.m. ET 11/22/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1852–082; ER10–1951–058; ER11–4462–081; ER17–838–055; ER18–807–012; ER20–2380–008; ER23–853–001; ER23–854–001; ER23–884–002.

Applicants: Sonoran Solar Energy, LLC, Storey Energy Center, LLC, Saint Energy Storage II, LLC, Saint Solar, LLC, Pinal Central Energy Center, LLC, NextEra Energy Marketing, LLC, NEPM II, LLC, NextEra Energy Services Massachusetts, LLC, Florida Power & Light Company.

Description: Notice of Change in Status of Florida Power & Light Company, et al.

Filed Date: 10/31/23.

Accession Number: 20231031–5374.

Comment Date: 5 p.m. ET 11/21/23.

Docket Numbers: ER22–281–001; ER22–286–001; ER22–288–001; ER22–289–001.

Applicants: Dry Bridge Solar 4, LLC, Dry Bridge Solar 3, LLC, Dry Bridge Solar 2, LLC, Dry Bridge Solar 1, LLC.

Description: Notice of Change in Status of Dry Bridge Solar 1, LLC, et al.

Filed Date: 10/31/23.

Accession Number: 20231031–5376.

Comment Date: 5 p.m. ET 11/21/23.

Docket Numbers: ER23–854–002.

Applicants: Storey Energy Center, LLC.

Description: Notice of Change in Status of Storey Energy Center, LLC.

Filed Date: 10/31/23.

Accession Number: 20231031–5375.

Comment Date: 5 p.m. ET 11/21/23.

Docket Numbers: ER24–312–000.

Applicants: Electrical District No. 3 of the County of Pinal, State of Arizona.

Description: Baseline eTariff Filing: Revised Formula Rate to the Transmission Service Agreement to be effective 11/1/2023.

Filed Date: 11/1/23.

Accession Number: 20231101–5207.

Comment Date: 5 p.m. ET 11/22/23.

Docket Numbers: ER24–313–000.

Applicants: Pennsylvania Electric Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Pennsylvania Electric Company submits tariff filing per 35.13(a)(2)(iii: Penelec Amends SA Nos. 6483 and 6624, One ECSA and One CA to be effective 12/31/9998.

Filed Date: 11/1/23.

Accession Number: 20231101–5216.

Comment Date: 5 p.m. ET 11/22/23.

Docket Numbers: ER24–314–000.

Applicants: Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: Duke Energy Progress, LLC submits tariff filing per 35.13(a)(2)(iii: DEC–DEP Proposed Revisions—Attachment N–1 to be effective 1/1/2024.

Filed Date: 11/1/23.

Accession Number: 20231101–5219.

Comment Date: 5 p.m. ET 11/22/23.

Docket Numbers: ER24–315–000.

Applicants: FirstEnergy Pennsylvania Electric Company, Keystone Appalachian Transmission Company.

Description: § 205(d) Rate Filing: FirstEnergy Pennsylvania Electric Company submits tariff filing per 35.13(a)(2)(iii: 2023–11–01—Revisions to an Agreement to Which West Penn & Penelec are Parties to be effective 12/31/9998.

Filed Date: 11/1/23.

Accession Number: 20231101–5230.

Comment Date: 5 p.m. ET 11/22/23.

Docket Numbers: ER24–316–000.

Applicants: American Electric Power Service Corporation, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii: AEP submits one Facilities Agreements re: ILDSA, SA No. 4234 to be effective 2/1/2024.

Filed Date: 11/2/23.

Accession Number: 20231102–5020.

Comment Date: 5 p.m. ET 11/24/23.

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, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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Dated: November 2, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–24743 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Effectiveness of Exempt Wholesale Generator Status

	Docket Nos.
20SD 8me LLC	EG23–243–000
Bright Arrow Solar, LLC	EG23–244–000
Montgomery Ranch Wind Farm, LLC	EG23–245–000
Shamrock Wind, LLC	EG23–246–000
Pioneer Hutt Wind Energy LLC	EG23–247–000
BRP Hydra BESS LLC	EG23–248–000
BRP Paleo BESS LLC	EG23–249–000
BRP Pavo BESS LLC	EG23–250–000
BRP Tortolas BESS LLC	EG23–251–000
BRP Dickens BESS LLC	EG23–252–000
Mockingbird Solar Center, LLC	EG23–253–000
Cereal City Solar, LLC	EG23–254–000
AES WR Limited Partnership	EG23–255–000
High Banks Wind, LLC	EG23–256–000
Hardy Hills Solar Energy LLC	EG23–257–000
Grover Hill Wind, LLC	EG23–258–000
Wildflower Solar 2 LLC	EG23–259–000
Wildflower Solar 3 LLC	EG23–260–000
Richfield Solar Energy LLC	EG23–261–000
Steel Solar, LLC	EG23–262–000
Parliament Solar LLC	EG23–263–000
North Bend Wind Project LLC	EG23–264–000
Five Wells Storage LLC	EG23–265–000
Walnut Bend Solar LLC	EG23–266–000
SCEF 1 Fuel Cell, LLC	EG23–267–000
Longhorn Storage LLC	EG23–269–000
Hunter Solar, LLC	EG23–270–000
Arche Energy Project, LLC	EG23–271–000
El Sol Energy Storage LLC	EG23–272–000
Five Wells Solar Center LLC	EG23–273–000
Hopkins Energy LLC	EG23–274–000
Myrtle Storage, LLC	EG23–275–000
Mammoth North LLC	EG23–276–000

Take notice that during the month of October 2023, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a) (2022).

Dated: November 2, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–24739 Filed 11–8–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–094]

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 October 30, 2023 10 a.m. EST Through November 3, 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. 20230154, Draft, USAF, TX, T–7A Recapitalization at Laughlin Air Force Base, Texas, *Comment Period Ends:* 01/08/2024, *Contact:* Chinling Chen 830–298–5262.

EIS No. 20230155, Draft, BLM, CO, Gunnison Sage-Grouse Resource Management Plan Amendment, *Comment Period Ends:* 02/06/2024, *Contact:* Gina Phillips 970–240–5381.

EIS No. 20230156, Draft, USAF, TX, B–21 Beddown Main Operating Base 2 or Main Operating Base 3 at Dyess AFB or Whiteman AFB, *Comment Period Ends:* 01/05/2024, *Contact:* Chris Moore 325–696–4820.

EIS No. 20230157, Draft Supplement, NRC, TX, Generic Environmental Impact Statement for License Renewal of Nuclear Plants, Supplement 60, Regarding License Renewal of Comanche Peak Nuclear Power Plant, Draft Report for Comment, *Comment Period Ends:* 12/26/2023, *Contact:* Tam Tran 301–415–3617.

EIS No. 20230158, Draft, BLM, CO, Draft Resource Management Plan Amendment (RMPA) and Environmental Impact Statement (EIS) for Big Game Habitat Conservation for Oil and Gas Management, *Comment Period Ends:* 02/06/2024, *Contact:* Ashley Phillips 303–239–3948.

EIS No. 20230159, Draft, BLM, UT, Cross-Tie 500Kv Transmission Project, *Comment Period Ends:* 01/02/2024, *Contact:* Clara Stevens 435–743–3119.

Dated: November 3, 2023.

Nancy Abrams,

Associate Director, Office of Federal Activities.

[FR Doc. 2023–24784 Filed 11–8–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2023–0521; FRL–11522–01–OCSPP]

Science Advisory Committee on Chemicals; Request for Nominations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) invites the public to nominate scientific experts from a diverse range of disciplines to be considered for appointment to the Science Advisory Committee on Chemicals (SACC), established pursuant to the Toxic Substances Control Act (TSCA). EPA anticipates appointing new SACC members by mid-2024 due to expiring membership terms. Sources in addition to this **Federal Register** Notice will be utilized to solicit nominations and identify candidates. Any interested person or organization may nominate qualified individuals to be considered prospective candidates for the committee by following the instructions provided in this document. Individuals may also self-nominate.

DATES: Nominations of candidates to be considered for appointment to the SACC must be received on or before December 11, 2023.

ADDRESSES: Submit your nominations identified by the docket identification (ID) number EPA–HQ–OPPT–2023–0521, to the Designated Federal Officer (DFO) listed under **FOR FURTHER INFORMATION CONTACT**. Do not electronically submit (*e.g.,* via email) any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Tamue L. Gibson, MS, Designated Federal Officer (DFO) and Executive Secretary, telephone number: (202) 564–7642; email address: *gibson.tamue@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. This action may, however, be of interest to those involved in the manufacture, processing, distribution, disposal, and/or those interested in the assessment of risks involving chemical substances and mixtures. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

B. What should I consider as I prepare my nominations for EPA?

1. *Submitting CBI.* Do not submit CBI information to EPA through

regulations.gov or email. If your nomination contains any information that you consider to be CBI or otherwise protected, please contact the DFO listed under **FOR FURTHER INFORMATION CONTACT** to obtain special instructions before submitting your nomination. Information properly marked as CBI will not be disclosed except in accordance with the procedures set forth in 40 CFR part 2.

2. *Request for nominations.* As part of a broader process for developing a pool of candidates for membership on the SACC, the EPA Peer Review and Ethics Branch (PREB) staff solicits the public and stakeholder communities for nominations of prospective candidates. Any interested person or organization may nominate qualified individuals to be considered as prospective candidates. Individuals also may self-nominate.

II. Background

The SACC is a federal advisory committee, established in December 2016 pursuant to TSCA section 2625(o), and chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C. 1001–1014. EPA established the SACC to provide independent advice and recommendations to the EPA Administrator on the scientific basis for risk assessments, methodologies, and approaches relating to implementation of TSCA. The SACC members serve as Special Government Employees (SGEs) or Regular Government Employees (RGEs). The SACC expects to meet approximately 4 to 6 times per year, or as needed and approved by the DFO.

Currently, there are 18 SACC members, with eight membership terms that will expire over the next year. The expiring membership terms are eligible for reappointments. Therefore, up to eight new appointments or a mix of reappointments and new appointments are possible by mid-2024.

III. Nominations

In accordance with Executive Order 14035 (June 25, 2021), EPA values and welcomes opportunities to increase diversity, equity, inclusion, and accessibility on its federal advisory committees. In an effort to obtain nominations of diverse candidates, EPA encourages nominations of women and men of all racial and ethnic groups that draw from the full diversity of the Nation. Any interested person or organization may nominate qualified persons to be considered for appointment to this advisory committee. Individuals also may self-nominate. Nominations may be submitted in electronic format in accordance with the instructions under **ADDRESSES**.

Nominations should include candidates who have demonstrated high levels of competence, knowledge, and expertise in scientific/technical fields relevant to chemical safety and risk assessment. In particular, the nominees should include representation of the following disciplines, including, but not limited to: Human health and ecological risk assessment, biostatistics, epidemiology, pediatrics, physiologically-based pharmacokinetics (PBPK), toxicology and pathology (including neurotoxicology, developmental/reproductive toxicology, environmental toxicology, computational toxicology and carcinogenesis), cancer hazard and risk assessment, aggregate exposure, exposure assessment, bioinformatics/statistics, inhalation exposure, inhalation toxicology, occupational exposure/industrial hygiene, and the relationship of chemical exposures to women, children, and other potentially exposed or susceptible subpopulations.

Nominations should include the following information: Current business contact information for the nominee (including the nominee's name, organization, current business address, email address, and daytime telephone number); the disciplinary and specific areas of expertise of the nominee; and any additional information indicating current position, educational background; research activities; and recent service on other federal advisory committees and national or international professional organizations. Persons having questions about the nomination process should contact the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

The DFO will acknowledge receipt of nominations. The names and biographical sketches of all interested and available nominees identified by respondents to this **Federal Register** notice, other sources for nominations, and any additional candidates identified by EPA Staff, will be posted in a List of Candidates in the docket at *https://www.regulations.gov* and will be available through the SACC website at *https://www.epa.gov/tsca-peer-review.* The availability of the list also will be announced through the Office of Chemical Safety and Pollution Prevention (OCSPP)'s listservs. You may subscribe to these listservs at the following website: *https://public.govdelivery.com/accounts/USAEPAOPPT/subscriber/new?topic_id=USAEPAOPPT_101.* Public comments on the List of Candidates will be requested to provide relevant information or other documentation on nominees that the EPA should consider in evaluating candidates. The final list of selected candidates to the SACC (names, professional affiliations) will be posted on the SACC website and announced through the OCSPP's listservs.

IV. Selection Criteria

In addition to scientific expertise, in selecting members, EPA will consider the breadth and balance of different perspectives and the collective experience needed to address EPA's prospective charges to the SACC, including the following:

- Background and experiences that would contribute to the diversity of scientific viewpoints on the committee, including professional experiences in government, labor, public health, public interest, animal protection, industry, and other groups, as the EPA Administrator determines to be advisable (*e.g.,* geographical location, social and cultural backgrounds, and professional affiliations).
- Skills and experience working on committees and advisory panels including demonstrated ability to work constructively and effectively in a committee setting.
- Information on financial conflicts of interest or the appearance of a loss of impartiality. Prospective candidates will be asked to submit confidential financial information which shall fully disclose, among other financial interests, the candidate's employment, stocks, and bonds, and where applicable, sources of research support. EPA will evaluate the candidate's financial disclosure forms to assess the possibility of financial conflicts of interest, appearance of a loss of impartially, or any prior involvement with the development of documents likely to be under consideration by the SACC (including previous scientific peer reviews) before the candidate is considered further.
- Willingness to commit adequate time for the thorough review of materials provided to the committee.
- Availability to participate in committee meetings.

Authority: 15 U.S.C. 2625 *et seq.;* 5 U.S.C. 1001–1014.

Dated: November 3, 2023.

Michal Freedhoff,

Assistant Administrator, Office of Chemicals Safety and Pollution Prevention.

[FR Doc. 2023–24749 Filed 11–8–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2017–0496; FRL–11545–01–ORD]

Availability of the Protocol for the Nitrate and Nitrite IRIS Assessment (Oral)

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 Nitrate and Nitrite IRIS Assessment (Oral).* This document communicates the rationale for conducting the human health assessment of Nitrate and Nitrite, 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 November 9, 2023 and ends December 11, 2023. Comments must be received on or before December 11, 2023.

ADDRESSES: The Protocol for the Nitrate and Nitrite IRIS Assessment (Oral) 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–2017–0496.

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; email: *shams.dahnish@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background Information on the IRIS Program and Systematic Review Protocols

EPA's 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 assessment and is made available to the public. 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–2017–0496 for Nitrate/Nitrite, 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–2017–0496 for nitrate/nitrite. 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.

Wayne Cascio,

Director, Center for Public Health & Environmental Assessment.

[FR Doc. 2023–24746 Filed 11–8–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2022–0509; FRL–7661–05–OCSPP]

Notice of Approval Status; Certifying Authorities' Amended Plans for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Batch Four

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is announcing its approval or conditional approval of 26 amended certification plans for certifying applicators of Restricted Use Pesticides (RUPs) from the following certifying authorities: Arkansas

Department of Agriculture (ADA), Cheyenne River Sioux Tribe's Water, Energy and Environment Committee (CRST–WEEC), Clemson University Division of Regulatory and Public Service Programs, Department of Pesticide Regulation (CUDPR), Florida Department of Agriculture and Consumer Services (FDACS), Guam Environmental Protection Agency (Guam-EPA), Idaho State Department of Agriculture (ISDA), Illinois Department of Agriculture (IDA), Kansas Department of Agriculture (KDA), Louisiana Department of Agriculture and Forestry (LDAF), Maine Department of Agriculture, Conservation and Forestry Board of Pesticides Control (ME BPC), Massachusetts Department of Agricultural Resources (MDAR), Missouri Department of Agriculture (MODA), Montana Department of Agriculture (MTDA), New Mexico Department of Agriculture (NMDA), Ohio Department of Agriculture (ODA), Oklahoma Department of Agriculture, Food, and Forestry (ODAFF), Pennsylvania Department of Agriculture (PDA), the Prairie Band Potawatomi Nation (PBPN), the Santee Sioux Nation (SSN), Tennessee Department of Agriculture (TNDA), Texas Department of Agriculture (TXDA), the Three Affiliated Tribes of the Fort Berthold Reservation's Natural Resources Department (TAT/NRD), Utah Department of Agriculture and Food (UDAF), Virginia Department of Agriculture and Consumer Services (VDACS), the White Earth Band of the Minnesota Chippewa Tribe (WE), and Wisconsin Department of Agriculture, Trade, and Consumer Protection (WDATCP). The 26 plans listed in this batched notice represents the fifth notification announcing the approval of the federal, state, territory, and tribal certification plans that have gone through the review and approval process. The amended plans are consistent with the existing regulatory requirements, including revisions made in 2017 to enhance and improve the competency of certified applicators of RUPs and persons working under their direct supervision. The 2017 regulatory revisions are intended to further reduce potential exposure of RUPs to certified applicators and those working under their direct supervision, other workers, the public, and the environment. Federal, state, territory, and tribal certifying authorities with existing certification plans were required to revise their existing plans to conform with the updated federal standards for RUP applicator certification and receive EPA approval by the established regulatory deadline.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: The designated EPA point of contact for the Certification Plan of interest as listed in Table 1 of Unit I.B.

For general information contact: Carolyn Schroeder, Pesticide Re-Evaluation Division (7508M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–2376; email address: *schroeder.carolyn@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 a federal, state, territory, or tribal agency who administers a certification program for pesticides applicators. You many also be potentially affected by this action if you are: A registrant of RUP products; a person who applies RUPs, including those under the direct supervision of a certified applicator; a person who relies upon the availability of RUPs; someone who hires a certified applicator to apply an RUP; a pesticide safety educator; or other person who provides pesticide safety training for pesticide applicator certification or recertification. 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:

- Agricultural Establishments (Crop Production) (NAICS code 111).
- Nursery and Tree Production (NAICS code 111421).
- Agricultural Pest Control and Pesticide Handling on Farms (NAICS code 115112).
- Crop Advisors (NAICS codes 115112, 541690, 541712).
- Agricultural (Animal) Pest Control (Livestock Spraying) (NAICS code 115210).
- Forestry Pest Control (NAICS code 115310).
- Wood Preservation Pest Control (NAICS code 321114).
- Pesticide Registrants (NAICS code 325320).
- Pesticide Dealers (NAICS codes 424690, 424910, 444220).
- Industrial, Institutional, Structural & Health Related Pest Control (NAICS code 561710).
- Ornamental & Turf, Rights-of-Way Pest Control (NAICS code 561730).
- Environmental Protection Program Administrators (NAICS code 924110).
- Governmental Pest Control Programs (NAICS code 926140).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How can I get copies of these documents and other related information?

For assistance in locating documents related to the approved plans identified in this notice, please consult the designated EPA point of contact for the Certification Plan of interest as listed in Table 1 of this unit, or the general contact person listed under **FOR FURTHER INFORMATION CONTACT**.

TABLE 1—DESIGNATED EPA POINT OF CONTACTS FOR THE CERTIFICATION PLANS

EPA region	Certification plan	EPA point of contact	POC phone	Email
Region 1	MDAR ME BPC	Andrea Szylvian	(617) 918–1198	*szylvian.andreacommat; epa.gov.*
Region 3	PDA VDACS	Camille Lukey	(215) 814–2930	*lukey.camille@epa.gov.*
Region 4	CUDPR FDACS TNDA	Richard Corbett	(404) 562–9008	*corbett.richard@epa.gov.*
Region 5	IDA ODA WDATCP WE	Donald Baumgartner	(312) 886–7835	*baumgartner.donald@epa.gov.*

TABLE 1—DESIGNATED EPA POINT OF CONTACTS FOR THE CERTIFICATION PLANS—Continued

EPA region	Certification plan	EPA point of contact	POC phone	Email
Region 6	ADA LDAF NMDA ODAFF TXDA	Eric Nystrom	(214) 665–6752	*nystrom.eric@epa.gov.*
Region 7	KDA MODA PBPN SSN	Shawn Hackett	(913) 551–7774	*hackett.shawn@epa.gov.*
Region 8	CRST–WEEC MTDA TAT/NRD UDAF	Kevin Martin	(303) 312–6085	*martin.kevin@epa.gov.*
Region 9	Guam-EPA	Katy Wilcoxen	(415) 947–4205	*wilcoxen.katy@epa.gov.*
Region 10	ISDA	Bethany Plewe	(208) 378–5753	*plewe.bethany@epa.gov.*

II. What is the Agency's authority for taking this action?

Section 11 of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA), 7. U.S.C. 136 *et seq.,* requires certifying authorities to have an EPA-approved certification plan to certify applicators of RUPs. The Certification of Pesticide Applicators (CPA) regulation at 40 CFR part 171 was amended in 2017 (Ref. 1). As a result, federal, state, territory, and tribal certifying authorities with existing certification plans were required to revise their existing certification plans to conform with the updated federal standards for the certification of applicators of RUPs and submit their revisions to EPA by March 2020 for EPA review and approval. The CPA regulation specifies that the existing certification plans remain in place until the revised plans are approved by EPA on or before the regulatory deadline established in 40 CFR 171.5. The Agency has since issued a final rule extending the original deadline for certification plans to comply with the updated federal standards under the 2017 CPA rule to November 4, 2023 (Ref. 2).

III. What action is the Agency taking?

This action gives notice that the following 26 certifying authorities' certification plans submitted to the Agency meet or exceed the standards of 40 CFR part 171: ADA, CRST–WEEC, CUDPR, FDACS, Guam–EPA, IDA, ISDA, KDA, LDAF, MDAR, ME BPC, MODA, MTDA, NMDA, ODA, ODAFF, PBPN, PDA, SSN, TAT/NRD, TNDA, TXDA, UDAF, VDACS, WDATCP, and WE. EPA hereby gives notice that the 26 amended certification plans for certifying applicators of RUPs listed in this document are now approved or conditionally approved plans; the certifying authorities may certify RUP applicators and continue with implementation of the certification plans as outlined in the approved plans.

With this announcement, EPA has approved or conditionally approved 67 out of the 68 federal, state, territory, and tribal certification plans submitted to the Agency prior to the November 2023 regulatory deadline. The 26 plans listed in this batched notice represents the fifth notification announcing the approval of the federal, state, territory, and tribal certification plans that have gone through the review and approval process. EPA also provides information regarding the reviews and approvals of these certification plans, and where copies of these approved plans are available, on its website at *https://www.epa.gov/pesticide-worker-safety/certification-standards-pesticide-applicators.*

One remaining plan, which is a Tribal-EPA memorandum of agreement (MOA) with the Shoshone-Bannock Tribes of the Fort Hall Reservation (SBT), will not be finalized by the November 4, 2023 deadline. After the November 2023, deadline, the existing MOA will no longer be valid. By default, the Tribe's jurisdiction will be covered by the EPA Plan for the Federal Certification of Applicators of Restricted Use Pesticides within Indian Country (EPA Plan) (Ref. 3) until the MOA is approved. Alternatively, if the Tribe responds in writing that it wants to opt out of the EPA Plan in the interim, they may do so. The Tribe, in any case, may continue to work with EPA to finalize their MOA. EPA will notify the Tribe that they may not continue to issue new or renew certifications under its existing MOA until the modified plan is approved. EPA will work with the Tribe on transitioning to the EPA Plan pending the approval of their MOA, including establishing a transition phase for existing applicators to get certified under the EPA Plan.

III. References

The following is a list of documents that are related to the issuance of this Notice. For assistance in locating these other documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

1. EPA. Pesticides; Certification of Pesticide Applicators; Final Rule. **Federal Register**. 82 FR 952, January 4, 2017 (FRL–9956–70).
2. EPA. Pesticides; Certification of Pesticide Applicators; Further Extension to Expiration Date of Certification Plans; Final Rule. **Federal Register**. 87 FR 50953, August 19, 2022 (FRL–9134.1–04–OCSPP).
3. EPA. Notice of Approval Status; EPA Plan for the Federal Certification of Applicators Within Indian Country. **Federal Register**. 88 FR 68604, October 4, 2023 (FRL–7661–04–OCSPP).

Authority: 7 U.S.C. 136–136y.

Dated: November 3, 2023.

Mary Elissa Reaves,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2023–24745 Filed 11–8–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OA–2023–0030, FRL–11537–01–OA]

Notice of Meeting of the EPA Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given that the next

meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held virtually and in-person on December 13 and 14, 2023 at the U.S. Environmental Protection Agency (EPA) Headquarters located at 1200 Pennsylvania Avenue NW, Washington, DC 20460. The CHPAC advises the EPA on science, regulations and other issues relating to children's environmental health.

DATES: Meeting dates are December 13, 2023, from 10:00 a.m. to 5:00 p.m. and December 14, 2023, from 10:00 a.m. to 3:30 p.m. (EST).

ADDRESSES:

Virtual Public Meeting: You must register online to receive the webcast meeting link and audio teleconference information. Please follow the registration instructions that will be announced on the CHPAC website at: *https://www.epa.gov/children/chpac* by December 1, 2023.

Written Comments: Submit written comments, identified by docket identification (ID) number EPA–HQ–OA–2023–0030, through the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Comments should be submitted on or before December 7, 2023. Anyone submitting written comments after this date should contact Amelia Nguyen, listed under **FOR FURTHER INFORMATION CONTACT**. Do not electronically submit any information you consider to be Confidential Business Information (CBI; broadly defined as proprietary information, considered confidential to the submitter, the release of which would cause substantial business injury to the owner) or other information whose disclosure is restricted by statute. Additional information on commenting or visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

Special Accommodations: For information on access or services for individuals with disabilities, and to request accommodation for a disability, please contact Amelia Nguyen, listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Amelia Nguyen, Office of Children's Health Protection, U.S. EPA, MC 1107T, 1200 Pennsylvania Avenue NW, Washington, DC 20460, (202) 564–4268, or *nguyen.amelia@epa.gov.*

SUPPLEMENTARY INFORMATION: The meetings of the CHPAC are open to the public. An agenda will be posted to *https://www.epa.gov/children/chpac.*

Amelia Nguyen,

Biologist, Office of Children's Health Protection.

[FR Doc. 2023–24779 Filed 11–8–23; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Adoption of Department of Energy Categorical Exclusion Under the National Environmental Policy Act

AGENCY: Export-Import Bank of the United States

ACTION: Notice.

SUMMARY: The Export-Import Bank of the United States (EXIM) has identified a categorical exclusion (CE) established by the Department of Energy (DOE) that covers categories of actions that EXIM proposes to take. This notice identifies the DOE CE and EXIM's categories of proposed actions for which it intends to use DOE's CE and describes the consultation between the agencies.

DATES: The CE identified below is available for EXIM to use for its proposed actions effective November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Scott Condren (VP Policy Analysis), *Scott.Condren@exim.gov,* (202)565–3777; Tiffin Caverly (VP Engineering & Environment), *Tiffin.Caverly@exim.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

NEPA and CEs

The National Environmental Policy Act, 42 U.S.C. 4321–4347, (NEPA) requires Federal agencies to interpret and administer Federal policies, regulations, and laws in accordance with NEPA's policies and to consider environmental values in their decision making.

Federal agencies are required to provide a detailed statement on proposals for major Federal actions significantly affecting the quality of the human environment.[1] NEPA also created the Council of Environmental Quality (CEQ) as the body responsible for implementing NEPA.

Categorical exclusions (CEs) can be used when there is a determination the proposed type of action would not have a significant effect on the human environment; this option eliminates the need for an environmental assessment (EA) or more detailed environmental impact statement (EIS).[2]

CEQ considers CEs ''an important mechanism to promote efficiency in the NEPA process'' and recognizes an agency's ability to ''identify and substantiate categories of actions that normally do not have a significant effect on the human environment.'' [3]

Section 109 of NEPA, enacted as part of the Fiscal Responsibility Act of 2023, allows a Federal agency to ''adopt'' or use another agency's CEs for a category of proposed agency actions.[4] To use another agency's CEs under section 109, an agency must identify the relevant CEs listed in another agency's (''establishing agency'') NEPA procedures that cover its category of proposed actions or related actions; consult with the establishing agency to ensure that the proposed adoption of the CE to a category of actions is appropriate; identify to the public the CE that the agency plans to use for its proposed actions; and document adoption of the CE. EXIM has prepared this notice to meet these statutory requirements.

Program Background

As the official export credit agency of the United States, ''the mission of the Export-Import Bank of the United States is to support the creation of American jobs by facilitating the export of U.S. goods and services.'' The Export-Import Bank of the United States (EXIM) steps in when the private sector does not provide financing for American businesses. The Bank's actions have historically helped support these firms in competing with foreign businesses overseas. The Make More in America (MMIA) initiative applies EXIM's authorities for medium and long-term (MLT) loans, loan guarantees, and insurance to export-oriented domestic projects. In doing so, MMIA allows EXIM to support American business during the whole export lifecycle. The purpose of such loans remains unchanged: to support U.S. employment. As EXIM usually lends to projects outside the United States, NEPA has not often been applicable because environmental effects are located entirely outside the jurisdiction of the United States. In the new MMIA initiative which focuses on domestic lending, borrowing and adopting CEs from another agency will speed up the processing time of deals and conserve staff resources. Faster processing times in this initiative will greatly facilitate

[1] 40 CFR 1500.1.

[2] 40 CFR 1501.4.

[3] 88 FR 49924.

[4] 42 U.S.C. 4336c.

EXIM's support of American businesses and workers.

II. DOE Categorical Exclusion

EXIM proposes to adopt Department of Energy CE B1.31, Installation or relocation of machinery and equipment (10 CFR part 1021, subpart D, appendix B):

> Installation or relocation and operation of machinery and equipment (including, but not limited to, laboratory equipment, electronic hardware, manufacturing machinery, maintenance equipment, and health and safety equipment), provided that uses of the installed or relocated items are consistent with the general missions of the receiving structure. Covered actions include modifications to an existing building, within or contiguous to a previously disturbed or developed area[5] that are necessary for equipment installation and relocation. Such modifications would not appreciably increase the footprint or height of the existing building or have the potential to cause significant changes to the type and magnitude of environmental impacts.

DOE CE B1.31 also includes additional conditions referred to as integral elements. (10 CFR part 1021 subpart D, app. B). In order to apply the CE, the proposal must be one that would not:

(1) Threaten a violation of applicable statutory, regulatory, or permit requirements for environment, safety, and health, or similar requirements or Executive Orders;

(2) Require siting and construction or major expansion of waste storage, disposal, recovery, or treatment facilities (including incinerators), but the proposal may include categorically excluded waste storage, disposal, recovery, or treatment actions or facilities;

(3) Disturb hazardous substances, pollutants, contaminants, or CERCLA-excluded petroleum and natural gas products that preexist in the environment such that there would be uncontrolled or unpermitted releases;

(4) Have the potential to cause significant impacts on environmentally sensitive resources. An environmentally sensitive resource is typically a resource that has been identified as needing protection through Executive Order, statute, or regulation by Federal, state, or local government, or a federally recognized Indian tribe. An action may be categorically excluded if, although sensitive resources are present, the action would not have the potential to cause significant impacts on those resources (such as construction of a building with its foundation well above a sole-source aquifer or upland surface soil removal on a site that has wetlands). Environmentally sensitive resources include, but are not limited to:

(i) Property (such as sites, buildings, structures, and objects) of historic, archeological, or architectural significance designated by a Federal, state, or local government, federally recognized Indian tribe, or Native Hawaiian organization, or property determined to be eligible for listing on the National Register of Historic Places;

(ii) Federally listed threatened or endangered species or their habitat (including critical habitat) or Federally-proposed or candidate species or their habitat (Endangered Species Act); state-listed or state-proposed endangered or threatened species or their habitat; Federally-protected marine mammals and Essential Fish Habitat (Marine Mammal Protection Act; Magnuson-Stevens Fishery Conservation and Management Act); and otherwise Federally-protected species (such as the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act);

(iii) Floodplains and wetlands;

(iv) Areas having a special designation such as Federally- and state-designated wilderness areas, national parks, national monuments, national natural landmarks, wild and scenic rivers, state and Federal wildlife refuges, scenic areas (such as National Scenic and Historic Trails or National Scenic Areas), and marine sanctuaries;

(v) Prime or unique farmland, or other farmland of statewide or local importance, as defined at 7 CFR 658.2(a), ''Farmland Protection Policy Act: Definitions,'' or its successor;

(vi) Special sources of water (such as sole-source aquifers, wellhead protection areas, and other water sources that are vital in a region); and

(vii) Tundra, coral reefs, or rain forests; or

(5) Involve genetically engineered organisms, synthetic biology, governmentally designated noxious weeds, or invasive species, unless the proposed activity would be contained or confined in a manner designed and operated to prevent unauthorized release into the environment and conducted in accordance with applicable requirements, such as those of the Department of Agriculture, the Environmental Protection Agency, and the National Institutes of Health.

III. Proposed EXIM Category of Actions

EXIM intends to apply this categorical exclusion to loans, loan guarantees, and insurance transactions. The scope of projects would be akin to projects from the Department of Energy's Loans Program Office to which DOE has applied the categorical exclusion. These include purchase and installation of equipment in buildings, modifications to buildings in or contiguous to previously disturbed areas, such as a renovation of existing office, manufacturing, or lab space. In principle such transactions would be similar to EXIM's export finance transactions deemed a category C under its Environmental and Social Due Diligence Procedures and Guidelines.[6]

IV. Consideration of Extraordinary Circumstances and DOE's ''Integral Elements''

In assessing whether a categorical exclusion applies, EXIM would review whether there were extraordinary circumstances that would indicate a categorical exclusion is not appropriate due to the potential for a significant environmental effect. When applying this CE, EXIM will consider whether the proposed action has the potential to result in significant effects as described in DOE's definition of extraordinary circumstances. DOE defines extraordinary circumstances as unique situations presented by specific proposals, including, but not limited to, scientific controversy about the environmental effects of the proposal; uncertain effects or effects involving unique or unknown risks; and unresolved conflicts concerning alternative uses of available resources. 10 CFR 1021.410(b)(2). In addition, EXIM would review the proposed actions to ensure they do not breach the integral elements of classes of action in DOE's regulations as discussed above.

EXIM's engineering and environment division will have responsibility for determining if a categorical exclusion applies. These determinations will be posted at *https://www.exim.gov/policies/exim-bank-and-environment/make-more-america-initiative-approved-transactions*.

[5] DOE NEPA regulations say '' 'Previously disturbed or developed' refers to land that has been changed such that its functioning ecological processes have been and remain altered by human activity. The phrase encompasses areas that have been transformed from natural cover to non-native species or a managed state, including, but not limited to, utility and electric power transmission corridors and rights-of-way, and other areas where active utilities and currently used roads are readily available.'' 10 CFR 1021.410(g)(1).

[6] EXIM's Environmental and Social Due Diligence Procedures and Guidelines state that ''applications greater than $10 Million will be classified as Category C if they are not related to a physical project or if they relate to projects which do not require further environmental review because they are likely to have minimal or no adverse environmental or social risks or impacts. This category includes transactions related to new, expansion or existing projects of the type that have little or no potential to cause environmental effects and do not impact sensitive locations.'' Procedures and Guidelines, *EXIM.GOV*.

Consultation and Determination of Appropriateness

Consultations

EXIM identified the DOE CE that could apply to EXIM's proposed actions and consulted with DOE in September 2023. During this consultation, the agencies discussed whether the categories of EXIM proposed actions would be appropriately covered by the DOE CE; the extraordinary circumstances that EXIM should consider before applying the CE to EXIM's proposed actions; and the requirement to evaluate the conditions listed as integral elements in DOE's regulations (10 CFR 1021, subpart D, appendix B (1)–(5)). The agencies also discussed DOE's past use of the CE.

At the conclusion of that process, the agencies determined that EXIM's proposed use of the CE as described in this notice would be appropriate because the categories of actions for which EXIM plans to use the CE are consistent with the DOE CE.

Notice to the Public and Documentation of the Adoption

This notice serves to identify to the public and document EXIM's adoption of DOE's CE. The notice identifies the types of actions to which EXIM will apply the CE, as well as the considerations that EXIM will use in determining whether an action is within the scope of the CE.

Scott Condren,

Vice President, Policy Analysis.

[FR Doc. 2023–24777 Filed 11–8–23; 8:45 am]

BILLING CODE 6690–01–P

EXPORT-IMPORT BANK

[Public Notice: 2023–6050]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Equity Express Select Insurance

AGENCY: Export-Import Bank of the United States.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Export-Import Banks of the United States (EXIM), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal Agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

DATES: Comments must be received on or before January 8, 2024 to be assured of consideration.

ADDRESSES: Comments may be submitted electronically on *WWW.REGULATIONS.GOV* (EIB 10–02) or by email *Jennifer.Krause@exim.gov,* or by mail to Jennifer Krause, Export-Import Bank of the United States, 811 Vermont Ave. NW Washington, DC.

FOR FURTHER INFORMATION CONTACT: To request additional information, please contact Jennifer Krause, *Jennifer.Krause@exim.gov,* 305–526–7436 x24.

SUPPLEMENTARY INFORMATION: This form is used by an exporter (or broker acting on its behalf) in order to obtain approval for coverage of the repayment risk of export sales. The information received allows EXIM staff to make a determination of the eligibility of the applicant and the creditworthiness of one of the applicant's foreign buyers for EXIM assistance under its programs.

The application tool can be reviewed at: *https://img.exim.gov/s3fs-public/pub/pending/eib23-02.pdf.*

Title and Form Number: EIB 23–02, Application for Equity Express Select Insurance.

OMB Number: 3048–XXXX.

Type of Review: Regular.

Need and Use:

This is the application form for use by underserved U.S. businesses with limited export experience. Companies that are eligible to use the Equity Express Select policy will need to answer approximately 20 questions and sign an acknowledgement of the certifications that appear on the reverse of the application form. This program does not provide discretionary credit authority to the U.S. exporter, and therefore the financial and credit information needs are minimized.

Affected Public: This form affects entities involved in the export of U.S. goods and services.

Annual Number of Respondents: 500.

Estimated Time per Respondent: 0.25 hours.

Annual Burden Hours: 125 hours.

Frequency of Reporting of Use: Once per year.

Dated: November 3, 2023.

Kalesha Malloy,

IT Specialist and Privacy Officer.

[FR Doc. 2023–24747 Filed 11–8–23; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1222; FR ID 183730]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before December 11, 2023.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/*

public/do/PRAMain, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–1222.

Title: Inmate Calling Services (ICS) Provider Annual Reporting, Certification, and Other Requirements, WC Docket Nos. 23–62, 12–375, DA 23–656.

Form Number(s): FCC Form 2301(a) and FCC Form 2301(b).

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 30 respondents; 33 responses.

Estimated Time per Response: 5–1,200 hours.

Frequency of Response: Annual reporting and certification requirements, third party disclosure and waiver request requirements.

Obligation to Respond: Mandatory. Statutory authority for this collection of information is contained in sections 1, 2, 4(i)–(j), 5(c), 201(b), 218, 220, 225, 255, 276, 403, and 716 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i)–(j), 155(c), 201(b), 218, 220, 225, 255, 276, 403, and 617, and the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Public Law 117–338, 136 Stat. 6156.

Total Annual Burden: 6,690 hours.

Total Annual Cost: No cost.

Needs and Uses: In 2015, the Commission released the Second Report and Order and Third Notice of Further Proposed Rulemaking, WC Docket No. 12–375, 30 FCC Rcd 12763 (*2015 ICS Order*), in which it required that inmate calling services (ICS) providers file Annual Reports providing data and other information on their ICS operations, as well as Annual Certifications that reported data are complete and accurate and comply with the Commission's ICS rules. Pursuant to the authority delegated it by the Commission in the *2015 ICS Order,* the Wireline Competition Bureau (WCB) created a standardized reporting template (FCC Form No. 2301(a)) and a related certification of accuracy (FCC Form No. 2301(b)), as well as instructions to guide providers through the reporting process. *See* ICS Annual Reporting Form Word Template (Current), WC Docket No. 12–375 *https://www.fcc.gov/general/ics-data-collections* (last visited October 26, 2023) (Word Template); ICS Annual Reporting Form Excel Template (Current), WC Docket No. 12–375, *https://www.fcc.gov/general/ics-data-collections* (last visited October 26, 2023) (Excel Template); ICS Annual Reporting and Certification Instructions (Current), WC Docket No. 12–375 *https://www.fcc.gov/general/ics-data-collections* (last visited October 26, 2023) (Instructions) (Certification Instructions); ICS Annual Report Certification Form (Current), WC Docket No. 12–375, *https://www.fcc.gov/general/ics-data-collections* (last visited October 26, 2023) (Certification Form).

In 2021, the Commission released the Third Report and Order, Order on Reconsideration, and Fifth Further Notice of Proposed Rulemaking WC Docket No. 12–375, 36 FCC Rcd 9519 (2021). The Commission revised its rules by adopting, among other things, lower interim rate caps for interstate calls, new interim rate caps for international calls, and a new rate cap structure that requires ICS providers to differentiate between legally mandated and contractually required site commissions. The revisions also included expanded consumer disclosure requirements, as well as new reporting requirements for providers seeking waivers of the Commission's interstate and international rates.

In 2022, the Commission released the Fourth Report and Order and Sixth Further Notice of Proposed Rulemaking, WC Docket No. 12–375, FCC 22–76 (Sept. 30, 2022). The Commission adopted numerous requirements to improve access to communications services for incarcerated people with communication disabilities and expanded the scope of the Annual Reports to reflect these new requirements. Pursuant to section 64.6040(c), the Commission required, among other things, that, as part of its obligation to provide access to telecommunications relay services (TRS), when an incarcerated person who has individually registered to use video relay service (VRS), internet protocol (IP) Relay, or internet protocol captioned telephone service (IP CTS) is released from incarceration or transferred to another correctional facility, the ICS provider must notify the TRS provider(s) with which the incarcerated person has registered. Under sections 64.6060(a)(5)–(7), the Commission amended the annual reporting and certification requirement to include, among other things, that ICS providers report, for each facility served, the types of TRS that can be accessed from the facility and the number of completed calls and complaints for TTY-to-TTY calls, American Sign Language (SL) point-to-point video calls, and each type of TRS for which access is provided.

On January 5, 2023, the President signed into law the Martha Wright-Reed Just and Reasonable Communications Act of 2022, Public Law 117–338, 136 Stat. 6156 (the Martha Wright-Reed Act or the Act), expanding the Commission's statutory authority over communications services between incarcerated people and the non-incarcerated to include ''any audio or video communications service used by inmates . . . regardless of the technology used.'' The new Act also amends section 2(b) of the Communications Act of 1934, as amended (the Communications Act) to make clear that the Commission's authority extends to intrastate as well as interstate and international communications services used by incarcerated people.

The Act directs the Commission to ''promulgate any regulations necessary to implement'' the statutory provisions, including its mandate that the

Commission establish a ''compensation plan'' ensuring that all rates and charges for IPCS ''are just and reasonable,'' not earlier than 18 months and not later than 24 months after its January 5, 2023 enactment. The Act also requires the Commission to consider, as part of its implementation, the costs of ''necessary'' safety and security measures, as well as ''differences in costs'' based on facility size, or ''other characteristics.'' It also allows the Commission to ''use industry-wide average costs of telephone service and advanced communications services and the average costs of service of a communications service provider'' in determining just and reasonable rates.

On March 17, 2023, pursuant to the directive that the Commission implement the new Act and establish just and reasonable rates for incarcerated people's communications services (IPCS), the Commission released *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act; Rates for Interstate Inmate Calling Services,* WC Docket Nos. 23–62, 12–375, Notice of Proposed Rulemaking and Order, FCC 23–19, 88 FR 20804 (*2023 IPCS Notice*) and 88 FR 19001 (Order) (*2023 IPCS Order*). The Commission sought comment on how to interpret the Act's language to ensure that the Commission implements the statute in a manner that fulfills Congress's intent. Because the Commission is now required or allowed to consider certain types of costs, the Act contemplates that it would undertake an additional data collection. To ensure that it has the data necessary to meet its substantive and procedural responsibilities under the Act, the Commission adopted the *2023 IPCS Order* delegating authority to WCB and the Office of Economics and Analytics (OEA) to modify the template and instructions for the most recent data collection to the extent appropriate to timely collect such information to cover the additional services and providers now subject to the Commission's authority. On April 28, 2023, WCB and OEA issued a Public Notice seeking comment on all aspects of the proposed data collection. *WCB and OEA Seek Comment on Proposed 2023 Mandatory Data Collection for Incarcerated People's Communication Services,* WC Docket Nos. 23–62, 12–375, Public Notice, DA 23–355 (WCB/OEA Apr. 28, 2023). On July 26, 2023, WCB and OEA released an Order adopting instructions, a reporting template, and a certification form to implement the 2023 Mandatory Data Collection. *Incarcerated People's Communications Services; Implementation of the Martha Wright-Reed Act, Rates for Interstate Inmate Calling Services,* WC Docket Nos. 23–62, 12–375, Order, DA 23–638 (July 26, 2023). In the *2023 IPCS Order,* the Commission also reaffirmed and updated its prior delegation of authority to WCB and the Consumer and Governmental Affairs Bureau (CGB) (collectively, the Bureaus) to revise the instructions and reporting templates for the Annual Reports. Specifically, the Commission delegated to the Bureaus the authority to modify, supplement, and update the instructions and templates for the Annual Reports.

On August 3, 2023, the Bureaus issued a Public Notice seeking comment on proposed revisions to the instructions, template, and certification form for the Annual Reports, *https://www.fcc.gov/proposed-2023-ipcs-annual-reports,* which are necessary to reflect the revised rules improving access to communications services for incarcerated people with communication disabilities adopted in the *2022 ICS Order* and to help implement the Martha Wright-Reed Act to ensure just and reasonable rates for consumers and fair compensation for providers. *Wireline Competition Bureau and Consumer and Governmental Affairs Bureau Seek Comment on Revisions to IPCS Providers' Annual Reporting and Certification Requirements,* Public Notice, WC Docket Nos. 23–62, 12–375, DA 23–656 (Aug. 3, 2023). *https://www.fcc.gov/document/2023-incarcerated-peoples-communications-services-annual-reports-pn.* Notice of this document was published in the **Federal Register** on August 10, 2023 (88 FR 54318 Aug. 10, 2023).

The Bureaus have not yet issued an Order adopting revisions to the instructions, template, and certification form for the Annual Reports. It is necessary, however, for the Commission to effectuate the improved access to communications services for incarcerated people with communication disabilities required by section 64.6040(c). Consequently, we are dividing the information requirements and burdens of this collection between two submissions to the Office of Management and Budget (OMB). In the instant submission, we seek OMB approval for the new information requirements in section 64.6040(c), which improve access to communications services for incarcerated people with communications disabilities by expanding the rules for advanced TRS. Upon release of an Order adopting revisions to the instructions, template, and certification form for the Annual Reports, we will make a second submission to OMB, seeking approval of any revised information requirements adopted in that Order, as well as the new requirements in section 64.6060(a)(5)–(7), which expands the rule requiring the filing of Annual Reports to include additional data related to access to communications services for incarcerated people with communications disabilities.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–24753 Filed 11–8–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1212; FR ID 183993]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the

PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before January 8, 2024. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1212.

Title: SDARS Political Broadcasting Requirements.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1 respondent; 1 response.

Estimated Time per Response: 10 hours.

Frequency of Response: Recordkeeping requirement; On occasion reporting requirements; Third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority which covers this information collection is contained in 47 U.S.C. 309(a) and 307(a) of the Communications Act of 1934, as amended.

Total Annual Burden: 20 hours.

Total Annual Cost: No cost.

Needs and Uses: In 1997, the Commission imposed political broadcasting requirements on Satellite Digital Audio Broadcasting Service (''SDARS'') licensees. See Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310–2360 MHz Frequency Band, 12 FCC Rcd 5754, 5792, para. 92 (1997) (''1997 SDARS Order''), FCC 97–70. The Commission stated that SDARS licensees should comply with the same substantive political debate provisions as broadcasters: The Federal candidate access provision (47 U.S.C. 312(a)(7)) and the equal opportunities provision (47 U.S.C. 315). The 1997 SDARS Order imposes the following requirements on SDARS licensees:

Lowest Unit Charge: Similar to broadcasters, SDARS licensees must disclose any practices offered to commercial advertisers that enhance the value of advertising spots and different classes of time. SDARS licensees must also calculate the lowest unit charge and are required to review their advertising records throughout the election period to determine whether compliance with this rule section requires that candidates receive rebates or credits. See 47 CFR 73.1942.

Political File: Similar to broadcasters, SDARS licensees must also keep and permit public inspection of a complete record (political file) of all requests for SDARS origination time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition made by the system of such requests, and the charges made, if any, if the request is granted. The disposition includes the schedule of time purchased, when the spots actually aired, the rates charged, and the classes of time purchased. Also, when free time is provided for use by or on behalf of candidates, a record of the free time provided is to be placed in the political file as soon as possible and maintained for a period of two years. See 47 CFR 73.1943.

In 2016, the Commission expanded the requirement that public inspection files be posted to the FCC-hosted online public file database to SDARS licensees, among other entities. These public files include the political files.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–24841 Filed 11–8–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1058; FR ID 183996]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before December 11, 2023.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a)

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

OMB Control Number: 3060–1058.

Title: FCC Application or Notification for Spectrum Leasing Arrangement or Private Commons Arrangement; Wireless Telecommunications Bureau; Public Safety and Homeland Security Bureau.

Form Number: FCC Form 608.

Type of Review: Revision of a currently approved collection.

Respondents: Individual and households, Business or other for-profit entities, state, local, or tribal government, and not for profit institutions.

Number of Respondents and Responses: 1,116 respondents and 1,116 responses.

Estimated Time per Response: 0.05 to 1 hour.

Frequency of Response: Recordkeeping requirement; third party disclosure requirement, on occasion reporting requirement and periodic reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in 47 U.S.C. 154, 155, 158, 161, 301, 303(r), 308, 309, 310 and 332.

Total Annual Burden: 1,135.

Total Annual Cost: $1,443,825.

Needs and Uses: FCC Form 608 is a multi-purpose form. It is used to provide notification or request approval for any spectrum leasing arrangement (''Lease'') entered into between an existing licensee in certain Wireless and/or Public Safety Radio Services and a spectrum lessee. This form also is required to notify or request approval for any spectrum subleasing arrangement (''Sublease''). The data collected on the form is used by the FCC to determine whether the public interest would be served by the Lease or Sublease. The form is also used to provide notification for any Private Commons Arrangement entered into between a licensee, lessee, or sublessee and a class of third-party users (as defined in Section 1.9080 of the Commission's Rules).

On July 18, 2022, the Commission released a Report and Order and Second Further Notice of Proposed Rulemaking, Partitioning, Disaggregation, and Leasing of Spectrum, WT Docket No. 19–38, FCC 22–53, in which the Commission established the Enhanced Competition Incentive Program (ECIP) to establish incentives for wireless radio service licensees to make underutilized spectrum available to small carriers, Tribal Nations, and entities serving rural areas (ECIP Report and Order in WT Docket No. 19–38, FCC 22–53). In the Report and Order, the Commission adopted a program under which any covered geographic area licensee may offer spectrum to an unaffiliated eligible entity through a partition and/or disaggregation, and any covered geographic area licensee eligible to lease in an included service may offer spectrum to an unaffiliated eligible entity through a long-term leasing arrangement. If the FCC finds that approval of an ECIP eligible assignment or lease is in the public interest, the agency will consent to the transaction and confer benefits, including five-year license term extensions, one year construction extensions, and substituted alternative construction requirements for rural-focused transactions. The Commission also established rules to permit reaggregation of geographic licenses.

In establishing the ECIP, the Commission requires applicants seeking to participate in the program to submit certain information that shows the transaction qualifies for ECIP inclusion. The Commission found that the ECIP builds on Congressional goals in the MOBILE NOW Act to incentivize beneficial transactions in the public interest that will promote greater competition in the provision of wireless services, facilitate increased availability of advanced wireless services in rural areas, facilitate new opportunities for small carriers and Tribal Nations to increase access to spectrum, and bring more advanced wireless service including 5G to underserved communities. Specifically, in the ECIP Report and Order, the Commission revised its rules to allow any covered geographic licenses in included services to be leased to eligible entities through a long-term leasing arrangement.

Specifically, in the ECIP Report and Order, the Commission revised its rules to allow any covered geographic licenses in included services to be leased to eligible entities through a long-term leasing arrangement, to designate a Qualifying Transaction identified in the application as seeking consideration under the ECIP. Two new questions are being added to the FCC Form 608 as a result. Respondents are required to indicate by yes or no answer whether the application is seeking consideration under ECIP. Respondents are also required to select the applicable ECIP prong to its Qualifying Transaction, pursuant to either § 1.60003 or § 1.60004.

Finally, a new Schedule J is being added to FCC Form 608 and will be used by Spectrum Manager Lessors (*i.e.,* the Licensee) to file either the Initial Operation Requirement Notifications (IORN) or the Final Operation Requirement Notifications (FORN), as required by 47 CFR 1.60004, 1.60006, on behalf of the Lessee.

The Commission now seeks approval for revisions to its currently approved collection of information under OMB Control Number 3060–1058 to permit the collection of the changes requested herein. We anticipate that these revisions will have minimal impact on the hourly burden to complete FCC Form 608. The Commission therefore seeks approval for a revision to its currently approved information collection on FCC Form 608 to revise FCC Form 608 accordingly.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2023–24783 Filed 11–8–23; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

TIME AND DATE: Tuesday, November 14, 2023, at 10:30 a.m. and its continuation at the conclusion of the open meeting on November 16, 2023.

PLACE: 1050 First Street NE, Washington, DC and virtual (This meeting will be a hybrid meeting.)

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance matters pursuant to 52 U.S.C. 30109.

Financial or commercial information obtained from any person which is privileged or confidential.

Investigatory records compiled for law enforcement purposes and production would disclose investigative techniques.

Information the premature disclosure of which would be likely to have a

considerable adverse effect on the implementation of a proposed Commission action.

Matters concerning participation in civil actions or proceedings or arbitration.

CONTACT PERSON FOR MORE INFORMATION: Judith Ingram, Press Officer.Telephone: (202) 694–1220.

(Authority: Government in the Sunshine Act, 5 U.S.C. 552b)

Vicktoria J. Allen,

Deputy Secretary of the Commission.

[FR Doc. 2023–24958 Filed 11–7–23; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

[Docket No. AS23–17]

Appraisal Subcommittee Notice of Meeting

AGENCY: Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

ACTION: Notice of meeting.

Description: In accordance with section 1104(b) of title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, as amended, notice is hereby given that the Appraisal Subcommittee (ASC) will meet in open session for its regular meeting:

Location: This will be a virtual meeting via Webex. Please visit the agency's homepage (*www.asc.gov*) and access the provided registration link in the News and Events section. You MUST register in advance to attend this Meeting.

Date: November 15, 2023.

Time: 10:00 a.m. ET.

Status: Open.

Reports

Chair
Executive Director
Delegated State Compliance Reviews
Grants Director
Financial Manager

Action and Discussion Items

Approval of Minutes
  September 13, 2023 Quarterly Meeting Minutes
2024–2028 Strategic Plan
ASC Fiscal Year 2024 Notice of Funding Availability
Revised ASC Grants Handbook

How to Attend and Observe an ASC Meeting: The meeting will be open to the public via live webcast only. Visit the agency's homepage (*www.asc.gov*) and access the provided registration link in the News and Events section. The meeting space is intended to accommodate public attendees. However, if the space will not accommodate all requests, the ASC may refuse attendance on that reasonable basis. The use of any video or audio tape recording device, photographing device, or any other electronic or mechanical device designed for similar purposes is prohibited at ASC Meetings.

James R. Park,

Executive Director.

[FR Doc. 2023–24762 Filed 11–8–23; 8:45 am]

BILLING CODE 6700–01–P

FEDERAL MARITIME COMMISSION

[Docket No. FMC–2023–0013]

Agency Information Collection Activities: 30-Day Public Comment Request

AGENCY: Federal Maritime Commission.

ACTION: Thirty-day notice; request for comments.

SUMMARY: The Federal Maritime Commission (FMC) is giving public notice that the agency has submitted to the Office of Management and Budget (OMB) for approval a new data collection that utilizes a web portal to collect information from the public regarding comments, complaints, concerns, reports of noncompliance, requests for investigation, and requests for alternative dispute resolution. The collection implements certain provisions of the Ocean Shipping Reform Act of 2022. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 11, 2023.

ADDRESSES: Comments should be submitted to: (1) the Commission through the Federal eRulemaking Portal at *www.regulations.gov* (docket FMC–2023–0013) and (2) also sent to the Office of Management and Budget's Office of Information and Regulatory Affairs through the portal at *https://www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection at *Reginfo.gov* by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

If your material cannot be submitted to the addresses above, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

FOR FURTHER INFORMATION CONTACT: Amy Strauss, Acting Secretary; Phone: (202) 523–5725; Email: *secretary@fmc.gov.*

SUPPLEMENTARY INFORMATION:

Request for Comments

The Commission, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the continuing information collections listed in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for OMB approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments. We invite comments on: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Previous Request for Comments

On July 11, 2023, the Commission published notice and request for comment in the **Federal Register** (88 FR 44130) regarding the agency's request for approval from OMB for information collections as required by the Paperwork Reduction Act of 1995. During the 60-day period, the Commission received no comments on the request for OMB clearance.

Information Collections Open for Comment

Title: FMC Assistance Center (Web Portal).

OMB Approval Number: 3072–XXXX.

Abstract: Subsection 17(a) of the Ocean Shipping Reform Act of 2022 requires that the Commission establish on their public website a web page that allows for the submission of comments, complaints, concerns, reports of noncompliance, requests for investigation, and requests for alternative dispute resolution.[1] The statute also requires that the website direct each submission to the

[1] Ocean Shipping Reform Act of 2022, Public Law 117–146 (June 16, 2022).

appropriate component office of the Commission.

The FMC will implement a new web portal, the FMC Assistance Center, available through the agency's website to collect this information from the public. The collected information will be internally routed to the appropriate component office for response. As this collection includes inquiries related to dispute resolution services, it also encompasses Forms FMC–32 (Dispute Resolution Service Request—Cruise) and FMC–33 (Dispute Resolution Service Request—Cargo). Forms FMC–32 and FMC 33 have been modified in the Affirmation section to remove a statement directing the public to a link on the agency web page and to add a statement that the matter will be closed if false statements and documents are provided. These forms and the Assistance Center screen mock-ups are included in this docket. The burden associated with these forms is included in this collection.

Current Actions: The information being submitted contains a new data collection.

Type of Review: New information collection.

Needs and Uses: The Commission will use the FMC Assistance Center (web portal) to receive requests from the public and ensure prompt response to the shipping public.

Frequency: This information will be collected when members of the public choose to submit it.

Type of Respondents: Individuals and establishments who wish to ask questions, express concerns, or submit complaints to the Federal Maritime Commission.

Number of Annual Respondents: The Commission estimates an annual respondent universe of 5,000. The Commission further estimates 300 of these responses will require attaching an FMC form related to dispute resolution services (FMC–32 or FMC–33).

Estimated Time per Response: The time per response is estimated at 6 minutes per response for submissions that do not involve attaching forms and 20 minutes for responses requiring attaching forms.

Total Annual Burden: Burden is calculated as $4{,}700 \times 6$ minutes = 470 hours per portal submission that does not also include a form and 300×20 minutes = 100 hours for a submission that also includes either FMC–32 or FMC–33. Total burden equals 570 hours.

Carl Savoy,

Federal Register Alternate Liaison Officer.

[FR Doc. 2023–24785 Filed 11–8–23; 8:45 am]

BILLING CODE 6730–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS 3452–PN]

Medicare Program; Application by the Utilization Review Accreditation Commission (URAC) for Continued CMS Approval of Its Home Infusion Therapy (HIT) Accreditation Program

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

ACTION: Notice with request for comment.

SUMMARY: This notice acknowledges the receipt of an application from the Utilization Review Accreditation Commission (URAC) for continued approval by the Centers for Medicare & Medicaid Services (CMS) of URAC's national accrediting organization program for suppliers providing home infusion therapy (HIT) services and that wish to participate in the Medicare or Medicaid programs. The statute requires that within 60 days of receipt of an organization's complete application, CMS will publish a notice that identifies the national accrediting body making the request, describes the nature of the request, and provides at least a 30-day public comment period.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, by December 11, 2023.

ADDRESSES: In commenting, refer to file code CMS–3452–PN.

Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3452–PN, P.O. Box 8016, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–3452–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Shannon Freeland, (410) 786–4348.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that website to view public comments. We will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the individual will take actions to harm the individual. We continue to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

I. Background

Home infusion therapy (HIT) is a treatment option for Medicare beneficiaries with a wide range of acute and chronic conditions. Section 5012 of the 21st Century Cures Act (Pub. L. 114–255, enacted December 13, 2016) added section 1861(iii) to the Social Security Act (the Act), establishing a new Medicare benefit for HIT services. Section 1861(iii)(1) of the Act defines ''home infusion therapy'' as professional services, including nursing services; training and education not otherwise covered under the Durable Medical Equipment (DME) benefit; remote monitoring; and other monitoring services. HIT must be furnished by a qualified HIT supplier and furnished in the individual's home. The individual must:

- Be under the care of an applicable provider (that is, physician, nurse practitioner, or physician assistant); and
- Have a plan of care established and periodically reviewed by a physician in

coordination with the furnishing of home infusion drugs under Part B, that prescribes the type, amount, and duration of infusion therapy services that are to be furnished.

Section 1861(iii)(3)(D)(i)(III) of the Act requires that a qualified HIT supplier be accredited by an accrediting organization (AO) designated by the Secretary in accordance with section 1834(u)(5) of the Act. Section 1834(u)(5)(A) of the Act identifies factors for designating AOs and in reviewing and modifying the list of designated AOs. These statutory factors are as follows:

- The ability of the organization to conduct timely reviews of accreditation applications.
- The ability of the organization to take into account the capacities of suppliers located in a rural area (as defined in section 1886(d)(2)(D) of the Act).
- Whether the organization has established reasonable fees to be charged to suppliers applying for accreditation.
- Such other factors as the Secretary determines appropriate.

Section 1834(u)(5)(B) of the Act requires the Secretary to designate AOs to accredit HIT suppliers furnishing HIT not later than January 1, 2021. Section 1861(iii)(3)(D)(i)(III) of the Act requires a ''qualified home infusion therapy supplier'' to be accredited by a CMS-approved AO, pursuant to section 1834(u)(5) of the Act.

On March 1, 2019, we published a solicitation notice entitled, ''Medicare Program; Solicitation of Independent Accrediting Organizations to Participate in the Home Infusion Therapy Supplier Accreditation Program'' (84 FR 7057). This notice informed national AOs that accredit HIT suppliers of an opportunity to submit applications to participate in the HIT supplier accreditation program. We stated that complete applications would be considered for the January 1, 2021, designation deadline if received by February 1, 2020. Regulations for the approval and oversight of AOs for HIT organizations are located at 42 CFR part 488, subpart L. The requirements for HIT suppliers are located at 42 CFR part 486, subpart I.

II. Approval of Deeming Organization

Section 1834(u)(5) of the Act and regulations at 42 CFR 488.1010 require that our findings concerning review and approval of a national accrediting organization's requirements consider, among other factors, the applying accrediting organization's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data.

Our rules at 42 CFR 488.1020(a) require that we publish, after receipt of an organization's complete application, a notice that identifies the national accrediting body making the request, describes the nature of the request, and provides at least a 30-day public comment period. Pursuant to our rules at 42 CFR 488.1010(d), we have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of the Utilization Review Accreditation Commission (URAC) request for CMS' continued recognition of its HIT accreditation program. This notice also solicits public comment on whether URAC's requirements meet or exceed the Medicare requirements of participation for HIT services.

III. Evaluation of Deeming Authority Request

In the October 24, 2019, **Federal Register**, we published URAC's initial application for recognition as an accreditation organization for HIT (84 FR 57021). On April 1, 2020, we published notification of their approval as such an organization, effective March 27, 2020, through March 27, 2024 (84 FR 18243). URAC has since submitted all the necessary materials to enable us to make a determination concerning its request for continued recognition of its HIT accreditation program. This application was determined to be complete on August 30, 2023. Under section 1834(u)(5) of the Act and 42 CFR 488.1010 (Application and re-application procedures for national home infusion therapy accrediting organizations), our review and evaluation of URAC will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of URAC's standards for HIT as compared with CMS' HIT requirements for participation in the Medicare program.
- URAC's survey process to determine the following:

++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

++ The comparability of URAC's to CMS' standards and processes, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ URAC's processes and procedures for monitoring a HIT found out of compliance with URAC's program requirements.

++ URAC's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ URAC's capacity to provide CMS with electronic data and reports necessary for effective assessment and interpretation of the organization's survey process.

++ The adequacy of URAC's staff and other resources, and its financial viability.

++ URAC's capacity to adequately fund required surveys.

++ URAC's policies with respect to whether surveys are announced or unannounced, to ensure that surveys are unannounced.

++ URAC's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as CMS may require (including corrective action plans).

++ URAC's policies and procedures to avoid conflicts of interest, including the appearance of conflicts of interest, involving individuals who conduct surveys, audits or participate in accreditation decisions.

++ URAC's agreement or policies for voluntary and involuntary termination of HIT suppliers.

++ URAC's agreement or policies for voluntary and involuntary termination of the HIT AO program.

IV. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping, or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

V. Response to Comments

Because of the large number of public comments, we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble and when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

The Administrator of the Centers for Medicare & Medicaid Services (CMS),

Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Chyana Woodyard, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Chyana Woodyard,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2023–24850 Filed 11–8–23; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–D–1716]

Compliance Policy for Cosmetic Product Facility Registration and Cosmetic Product Listing; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of a final guidance for industry and the public on the requirements related to cosmetic product facility registration and cosmetic product listing under the Federal Food, Drug, and Cosmetic Act (FD&C Act) entitled ''Compliance Policy for Cosmetic Product Facility Registration and Cosmetic Product Listing.'' This guidance announces FDA's intention to delay enforcement of the requirements related to cosmetic product facility registration and cosmetic product listing for an additional 6 months after the initial December 29, 2023, deadline.

DATES: The announcement of the guidance is published in the **Federal Register** on November 9, 2023.

ADDRESSES: You may submit either electronic or written comments on Agency guidances 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–2023–D–1716 for ''Compliance Policy for Cosmetic Product Facility Registration and Cosmetic Product Listing; Guidance for Industry; Availability.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

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

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the guidance to the Office of Cosmetics and Colors, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740. Send two self-addressed adhesive labels to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Jennifer Ross, Office of the Chief Scientist, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 4332, Silver Spring, MD 20993–0002, 301–796–4880 (this is not a toll-free number), email: *QuestionsAboutMoCRA@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

We are announcing the availability of a guidance for industry and the public entitled ''Compliance Policy for Cosmetic Product Facility Registration and Cosmetic Product Listing.'' This guidance is intended to assist owners or operators of cosmetic product facilities that are subject to the requirements related to facility registration and responsible persons that are subject to the requirements related to cosmetic product listing under the FD&C Act. We are issuing this guidance consistent with our good guidance practices (GGP) regulation (§ 10.115 (21 CFR 10.115)). We are implementing this guidance without prior public comment because we have determined that prior public

participation is not feasible or appropriate (§ 10.115(g)(2)) as it provides time-sensitive information to industry about our intent to delay enforcement of the cosmetic product facility registration and product listing requirements under section 607 of the FD&C Act (21 U.S.C. 364c), which become effective on December 29, 2023, for 6 months until July 1, 2024. Although this guidance document is immediately in effect, it remains subject to comment in accordance with FDA's GGP regulation ((§ 10.115(g)(5)).

On December 29, 2022, the President signed the Consolidated Appropriations Act, 2023 (Pub. L. 117–328) into law, which included the Modernization of Cosmetics Regulation Act of 2022 (MoCRA). Among other provisions, MoCRA added section 607 to the FD&C Act, establishing requirements for cosmetic product facility registration and product listing. Section 607 of the FD&C Act generally imposes an initial registration and listing deadline of December 29, 2023, for facilities that engaged in manufacturing or processing of a cosmetic product and cosmetic products that were marketed as of December 29, 2022, the date MoCRA was enacted. This guidance announces FDA's intent to delay enforcement of the requirements related to cosmetic product facility registration and cosmetic product listing under section 607 of the FD&C Act related to cosmetic product facility registration and cosmetic product listing until July 1, 2024, to provide regulated industry additional time to comply with these requirements.

FDA issued a draft guidance entitled ''Registration and Listing of Cosmetic Product Facilities and Products'' on August 8, 2023 (88 FR 53490). The draft guidance, when finalized, will provide recommendations and instructions to assist persons submitting cosmetic product facility registrations and product listings to FDA. FDA intends to delay enforcement of the cosmetic product facility registration and product listing requirements to help ensure that owners or operators of cosmetic product facilities and responsible persons for cosmetic products have sufficient time to gather the relevant information required for facility registration and product listing, including obtaining facility registration numbers to associate with cosmetic product listings, obtaining access to the electronic submissions database, and verifying accurate registration and listing information for submission.

The guidance represents the current thinking of FDA on the issues within. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

III. Electronic Access

Persons with access to the internet may obtain the document at *https://www.fda.gov/CosmeticGuidances, https://www.fda.gov/regulatory-information/search-fda-guidance-documents,* or *https://www.regulations.gov.* Use the FDA website listed in the previous sentence to find the most current version of the guidance.

Dated: November 3, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–24731 Filed 11–8–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism.

The meeting will be held as a virtual meeting and will be open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH VideoCasting at the following link: *http://videocast.nih.gov/.*

A portion of this meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism.

Date: February 8, 2024.

Closed: 11:00 a.m. to 11:55 a.m.

Agenda: To review and evaluate grant applications.

Open: 12:00 p.m. to 4:00 p.m.

Agenda: Presentations and other business of the Council.

Place: National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, 6700B Rockledge Drive Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Philippe Marmillot, Ph.D., Acting Director, Office of Extramural Activities, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 6700B Rockledge Drive, Room 2118 Bethesda, MD 20892, (301) 443–2861, *marmillotp@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.

Information is also available on the Institute's/Center's home page: *http://www.niaaa.nih.gov/AboutNIAAA/AdvisoryCouncil/Pages/default.aspx,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.273, Alcohol Research Programs, National Institutes of Health, HHS)

Dated: November 6, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–24807 Filed 11–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 1009 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 Cancer Institute Special Emphasis Panel; Integrating Biospecimen Science Approaches.

Date: January 8, 2024.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W246, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Jun Fang, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W246, Rockville, Maryland 20850, 240–276–5460, *jfang@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 6, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–24808 Filed 11–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Secretary; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Muscular Dystrophy Coordinating Committee (MDCC).

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to participate and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Muscular Dystrophy Coordinating Committee.

Date: December 8, 2023.

Time: 9:00 a.m. to 4:00 p.m. EST.

Agenda: The purpose of this meeting is to bring together committee members, representing government agencies, patient advocacy groups, other voluntary health organizations, and patients and their families to update one another on progress relevant to the Action Plan for the Muscular Dystrophies and to coordinate activities and discuss gaps and opportunities leading to better understanding of the muscular dystrophies, advances in treatments, and improvements in patients' and their families' lives. The agenda for this meeting will be available on the MDCC website: *https://www.mdcc.nih.gov/*.

Registration: To register, please go to: *https://forms.roseliassociates.com/view.php?id=84779.*

Webcast Live: *https://videocast.nih.gov/.*

Place: Neuroscience Center Building (NSC), Room 1131, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Glen Nuckolls, Ph.D., Program Director, National Institute of Neurological Disorders and Stroke (NINDS), NIH, 6001 Executive Blvd., Rm 2203, Bethesda, MD 20892, 301–496–5876, *MDCC@nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

More information can be found on the Muscular Dystrophy Coordinating Committee home page: *https://mdcc.nih.gov/*.

Dated: November 3, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–24756 Filed 11–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel Emergency Medicine National K12 Review.

Date: December 14, 2023.

Time: 9:00 a.m. to 11:00 a.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: William C. Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3204, MSC 9529, Rockville, MD 20892–9529, 301–496–0660 *benzingw@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: November 3, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–24755 Filed 11–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 1009 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 cooperative agreement 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 Neurological Disorders and Stroke Special Emphasis Panel; Clinical Trials and Comparative Effectiveness Studies in Neurology.

Date: December 13–14, 2023.

Time: 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Shanta Rajaram, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Blvd., Suite 3208, Rockville, MD 20852, 301–435–6033, *rajarams@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: November 6, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–24811 Filed 11–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 1009 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 cooperative agreement 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 Neurological Disorders and Stroke Special Emphasis Panel; BPN Small Molecule and Biologic Therapeutic Drug Discovery for Disorders of the Nervous System.

Date: November 28–29, 2023.

Time: 10:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

Contact Person: Eric S. Tucker, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, NINDS/NIH/DHHS, NSC, 6001 Executive Boulevard, Rockville, MD 20852, 301–827–0799, *eric.tucker@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS.)

Dated: November 6, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–24809 Filed 11–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK FORWARD Urology Applications.

Date: March 6, 2024.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, NIDDK, Democracy II, Suite 7000A, 6707 Democracy Boulevard, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Ryan G. Morris, Ph.D., Scientific Review Officer, Review Branch, Division of Extramural Activities, NIDDK, National Institutes of Health, Room 7015, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–4721, *ryan.morris@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 3, 2023.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–24751 Filed 11–8–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0019]

Agency Information Collection Activities; Extension of Existing Information Collection; Vessel Entrance and Clearance System (VECS) (CBP Form 1300)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than December 11, 2023) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain* . Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501

et seq.). This proposed information collection was previously published in the **Federal Register** (88 FR 59932) on August 30, 2023, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions 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, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Vessel Entrance and Clearance System (VECS).

OMB Number: 1651–0019.

Form Number: CBP Form 1300.

Current Actions: Extension.

Type of Review: Extension.

Affected Public: Individuals.

Abstract: CBP Form 1300, Vessel Entrance or Clearance Statement, is used to collect essential commercial vessel data at time of formal entrance and clearance in U.S. ports, allows the master to attest to the truthfulness of all CBP forms associated with the manifest package, and collects relevant information about the vessel and cargo. The form was developed through agreement by the United Nations Intergovernmental Maritime Organization (IMO) in conjunction with the United States and various other countries. The form was developed as a single form to replace the numerous other forms used by various countries for the entrance and clearance of vessels. CBP Form 1300 is authorized by 5 U.S.C. 301, and 19 U.S.C. 66, 1415, 1624, 2071, 1431, 1433, and 1434, as well as 46 U.S.C. 501, 60105 and provided for by 19 CFR 4. This form is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=1300&=Apply.*

This form is currently submitted in paper format and is anticipated to be submitted electronically as part of CBP's efforts to automate maritime forms through the Vessel Entrance and Clearance System (VECS), which will reduce the need for paper submission of any vessel entrance or clearance requirements under the above referenced statutes and regulations. VECS will still collect and maintain the same data as CBP Form 1300 but will automate the capture of data to reduce or eliminate redundancy with other data collected by CBP.

Respondents are enabled to create a new ACE Account type for Vessel Agencies through the ACE Portal. The new account type within ACE will operate as a portal that leads to the Vessel Entrance and Clearance System (VECS), which will run as its own independent system.

Vessel Agents will be required to provide identifying information such as; their name, their employer identification number (EIN), company address, and their phone numbers, which will be requested at the time Vessel Agents apply for the new ACE account type.

After creating an ACE account, Vessel Agencies, Vessel Operating Common Carriers (VOCCs), and their designees are able to use the new Vessel Entrance and Clearance System (VECS) as part of the ongoing pilot program to test the functionality of VECS, and will be able to file vessel entrance, clearance, and related data to CBP electronically.

CBP is currently running a small public VECS Pilot on several ports. VECS will automate and digitize the collection and processing of the data and filing requirements for which the CBP Form 1300 is used. CBP plans to run an initial public pilot to test the system. All users who obtained a Vessel Agency Account through the ACE Portal will be automatically enrolled into the VECS public pilot. Initially, the pilot began at one of eleven ports where VECS was previously internally tested. CBP is providing training to each CBP port and the Vessel Agency personnel at each port, prior to beginning/expanding the public pilot in another port.

The VECS public pilot will continue to expand to additional ports, in an effort to progressively test and implement the system nationwide. There will be no change to the paper format of CBP Form 1300, and CBP Form 1300 in paper format will continue to be accepted.

New Submission: No changes to the information collection, the VECS pilot is still on-going and was live in 72 port codes as of August 2023, enabling fully electronic processing of vessel entrance and clearance. The public pilot has allowed CBP to identify areas for additional enhancement and automation, fix minor errors with the system's operation, and simultaneously deploy to new locations while continuing to test fixes and new capabilities. VECS pilot will continue to expand to other port codes while implementing training for port staff.

Type of Information Collection: CBP Form 1300.

Estimated Number of Respondents: 2,624.

Estimated Number of Annual Responses per Respondent: 72.

Estimated Number of Total Annual Responses: 188,928.

Estimated Time per Response: 30 minutes (0.5 hours).

Estimated Total Annual Burden Hours: 94,464.

Dated: November 6, 2023.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2023–24847 Filed 11–8–23; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below. The FIRM and FIS report are the basis of the floodplain management measures that a 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 Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP).

DATES: The date of March 27, 2024 has been established for the 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.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Colusa County, California and Incorporated Areas Docket No.: FEMA–B–2292	
City of Colusa	City Hall, 425 Webster Street, Colusa, CA 95932.
City of Williams	City Hall, 810 East Street, Williams, CA 95987.
Unincorporated Areas of Colusa County	Public Works Building, 1215 Market Street, Colusa, CA 95932.
Sarasota County, Florida and Incorporated Areas Docket No.: FEMA–B–2074	
City of North Port	Building Department, 4970 City Hall Boulevard, North Port, FL 34286.
City of Sarasota	Department of Development Services, 1565 1st Street, 2nd Floor, Sarasota, FL 34236.
City of Venice	Building Department, 401 West Venice Avenue, Venice, FL 34285.
Town of Longboat Key	Planning, Zoning, and Building Department, 501 Bay Isles Road, Longboat Key, FL 34228.
Unincorporated Areas of Sarasota County	Sarasota County Building Department, 1001 Sarasota Center Boulevard, Sarasota, FL 34240.
Waseca County, Minnesota and Incorporated Areas Docket No.: FEMA–B–2283	
City of Elysian	City Hall, 110 West Main Street, Elysian, MN 56028.
City of Janesville	City Hall, 101 North Mott Street, Janesville, MN 56048.
City of Waseca	City Hall, 508 South State Street, Waseca, MN 56093.
Unincorporated Areas of Waseca County	Waseca County Courthouse, 307 North State Street, Waseca, MN 56093.
Cleveland County, Oklahoma and Incorporated Areas Docket No.: FEMA–B–2242	
City of Moore	City Hall, 301 North Broadway Avenue, Moore, OK 73160.
City of Oklahoma City	Public Works Department, 420 West Main Street, Suite 700, Oklahoma City, OK 73102.
Oklahoma County, Oklahoma and Incorporated Areas Docket No.: FEMA–B–2242	
City of Oklahoma City	Public Works Department, 420 West Main Street, Suite 700, Oklahoma City, OK 73102.
Grant County, South Dakota and Incorporated Areas Docket No.: FEMA–B–2273	
City of Big Stone City	Grant County Courthouse, 210 East 5th Avenue, Milbank, SD 57252.
City of Milbank	Grant County Courthouse, 210 East 5th Avenue, Milbank, SD 57252.
City of Twin Brooks	Grant County Courthouse, 210 East 5th Avenue, Milbank, SD 57252.
Sisseton Wahpeton Oyate Tribe	Sisseton Wahpeton Oyate Emergency Management Office, 114 Lake Traverse Drive, Sisseton, SD 57262.

Community	Community map repository address
Town of Albee	Grant County Courthouse, 210 East 5th Avenue, Milbank, SD 57252.
Town of La Bolt	Grant County Courthouse, 210 East 5th Avenue, Milbank, SD 57252.
Town of Marvin	Grant County Courthouse, 210 East 5th Avenue, Milbank, SD 57252.
Town of Revillo	Grant County Courthouse, 210 East 5th Avenue, Milbank, SD 57252.
Town of Stockholm	Grant County Courthouse, 210 East 5th Avenue, Milbank, SD 57252.
Town of Strandburg	Grant County Courthouse, 210 East 5th Avenue, Milbank, SD 57252.
Unincorporated Areas of Grant County	Grant County Courthouse, 210 East 5th Avenue, Milbank, SD 57252.
Gonzales County, Texas and Incorporated Areas Docket No.: FEMA–B–2221	
City of Gonzales	City Hall, 820 St. Joseph Street, Gonzales, TX 78629.
Unincorporated Areas of Gonzales County	Gonzales County Office of Emergency Management, 1811 Water Street, Gonzales, TX 78629.
Guadalupe County, Texas and Incorporated Areas Docket No.: FEMA–B–2221	
City of New Braunfels	City Hall, 550 Landa Street, New Braunfels, TX 78130.
City of Seguin	Development Center, 108 East Mountain Street, Seguin, TX 78155.
Unincorporated Areas of Guadalupe County	Guadalupe County Environmental Health Department, 310 IH 10 West, Seguin, TX 78155.

[FR Doc. 2023–24794 Filed 11–8–23; 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–2386]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table 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.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

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 specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

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).

These 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. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each

community is available for inspection at both the online location and the respective community map repository address listed in the table 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.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Colorado:						
Adams	City of Northglenn, (22–08–0711P).	The Honorable Meredith Leighty, Mayor, City of Northglenn, 11701 Community Center Drive, Northglenn, CO 80233.	City Hall, 11701 Community Center Drive, Northglenn, CO 80233.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 15, 2023	080257
Denver	City and County of Denver, (23–08–0074P).	The Honorable Mike Johnston, Mayor, City and County of Denver, 1437 North Bannock Street, Room 350, Denver, CO 80202.	Department of Public Works, 201 West Colfax Avenue, Denver, CO 80202.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 19, 2024	080046
El Paso	City of Colorado Springs, (23–08–0612X).	The Honorable Yemi Mobolade, Mayor, City of Colorado Springs, 30 South Nevada Avenue, Colorado Springs, CO 80903.	El Paso County, Pikes Peak Regional Building Department, Floodplain Management Office, 2880 International Circle, Colorado Springs, CO 80910.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 22, 2024	080060
El Paso	Unincorporated areas of El Paso County, (23–08–0612X).	Cami Bremer, Chair, El Paso County, Board of Commissioners, 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 80903.	El Paso County Pikes Peak Regional Building Department, Floodplain Management Office, 2880 International Circle, Colorado Springs, CO 80910.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 22, 2024	080059
Pueblo	City of Pueblo, (22–08–0523P).	The Honorable Nicholas A. Gradisar, Mayor, City of Pueblo, 1 City Hall Place, Pueblo, CO 81003.	Public Works Department, 211 East D Street, Pueblo, CO 81003.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 21, 2023	085077
Florida:						
Monroe	Unincorporated areas of Monroe County, (23–04–4348P).	The Honorable Craig Cates, Mayor, Monroe County Board Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 18, 2023	125129
Monroe	Unincorporated areas of Monroe County, (23–04–4892P).	The Honorable Craig Cates, Mayor, Monroe County Board Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 26, 2024	125129
Monroe	Unincorporated areas of Monroe County, (23–04–4894P).	The Honorable Craig Cates, Mayor, Monroe County Board Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 26, 2024	125129
Monroe	Unincorporated areas of Monroe County, (23–04–4895P).	The Honorable Craig Cates, Mayor, Monroe County Board Commissioners, 500 Whitehead Street, Suite 102, Key West, FL 33040.	Monroe County Building Department, 2798 Overseas Highway, Suite 300, Marathon, FL 33050.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 26, 2024	125129
Pasco	Unincorporated areas of Pasco County, (23–04–2400P).	Jack Mariano, Chair, Pasco County Board of Commissioners, 37918 Meridian Avenue, Dade City, FL 33525.	Pasco County Building Construction Services Department, 8731 Citizens Drive, Suite 230, New Port Richey, FL 34654.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 8, 2024	120230
Sarasota	City of Sarasota, (23–04–2352P).	The Honorable Kyle Scott Battie, Mayor, City of Sarasota, 1565 1st Street, Room 101, Sarasota, FL 34236.	Development Service Department, 1565 1st Street, Room 101, Sarasota, FL 34236.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 26, 2023	125150

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Volusia	City of Deltona (23–04–1244P).	The Honorable Santiago Avila, Jr., Mayor, City of Deltona, 2345 Providence Boulevard, Deltona, FL 32725.	City Hall, 2345 Providence Boulevard, Deltona, FL 32725.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 9, 2024	120677
Volusia	Unincorporated areas of Volusia County, (23–04–1244P).	George Recktenwald, Volusia County Manager, 123 West Indiana Avenue, Deland, FL 32720.	Volusia County Thomas C. Kelly Administration Center, 123 West Indiana Avenue, Deland, FL 32720.	*https://msc.fema.gov/portal/advanceSearch.*	Feb. 9, 2024	125155
Louisiana:						
Ascension	Unincorporated areas of Ascension Parish, (23–06–0391P).	The Honorable Clint Cointment, Ascension Parish President, 615 East Worthey Street, Gonzales, LA 70737.	Ascension Parish Government Complex, 615 East Worthey Street, Gonzales, LA 70737.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 22, 2023	220013
Massachusetts:						
Essex	City of Gloucester, (23–01–0351P).	The Honorable Greg Varga, Mayor, City of Gloucester, 9 Dale Avenue, Gloucester, MA 01930.	City Hall, 3 Pond Road, 2nd Floor, Gloucester, MA 01930.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 18, 2023	250082
North Carolina:						
Jackson and Swain.	Eastern Band of Cherokee Indians, (21–04–5780P)	The Honorable Richard Sneed, Principal Chief, Eastern Band of Cherokee Indians, P.O. Box 455, Cherokee, NC 28719.	Office of the Principal Chief, 88 Council House Loop, Cherokee, NC 28719.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 13, 2023	370401
Jackson	Unincorporated areas of Jackson County, (21–04–5780P)	Mark Letson, Chair, Jackson County Board of Commissioners, P.O. Box 246, Cashiers, NC 28714.	Jackson County Planning Department, 401 Grindstaff Cove Road, Sylva, NC 28779.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 13, 2023	370282
Rowan	Town of Granite Quarry, (22–04–4689P)	The Honorable Brittany Barnhardt, Mayor, Town of Granite Quarry, 143 North Salisbury Avenue, Granite Quarry, NC 28146.	Town Hall, 143 North Salisbury Avenue, Granite Quarry, NC 28146.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 3, 2024	370212
Swain	Unincorporated areas of Swain County, (21–04–5780P).	Kevin Seagle, Chair, Swain County Board of Commissioners, P.O. Box 2321, Bryson City, NC 28713	Swain County, Administration Building, 50 Main Street, Suite 300, Bryson City, NC 28713.	*https://msc.fema.gov/portal/advanceSearch.*	Nov. 13, 2023	370227
Pennsylvania:						
Blair	Township of Blair, (22–03–1203P).	Paul R. Amigh, II, Chair, Township of Blair Board of Supervisors, 375 Cedarcrest Drive, Duncansville, PA 16635.	Township Hall, 375 Cedarcrest Drive, Duncansville, PA 16635.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 18, 2024	421386
South Carolina:						
Greenville	Unincorporated areas of Greenville County, (23–04–1969P).	Joseph Kernell, Greenville County Administrator, 301 University Ridge, Suite N–4000, Greenville, SC 29601.	Greenville County Square, 301 University Ridge, Suite S–3100, Greenville, SC 29601.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 29, 2024	450089
Tennessee:						
Williamson	Unincorporated areas of Williamson County, (22–04–3168P).	The Honorable Rogers Anderson, Mayor, Williamson County, 1320 West Main Street, Suite 125, Franklin, TN 37064.	Williamson County Planning and Zoning Department, 1320 West Main Street, Suite 400, Franklin, TN 37064.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 29, 2023	470204
Texas:						
Dallas	City of Grand Prairie, (23–06–0809P).	The Honorable Ron Jensen, Mayor, City of Grand Prairie, P.O. Box 534045, Grand Prairie, TX 75053.	City Hall, 300 West Main Street, Grand Prairie, TX 75050.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 8, 2024	485472
Dallas	City of Irving (23–06–0809P).	The Honorable Rick Stopfer, Mayor, City of Irving, 825 West Irving Boulevard, Irving, TX 75060.	City Hall, 825 West Irving Boulevard, Irving, TX 75060.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 8, 2024	480180
Ellis	Unincorporated areas of Ellis County, (23–06–0581P).	The Honorable Todd Little, Ellis County Judge, 101 West Main Street, Waxahachie, TX 75165.	Ellis County Engineering Department, 109 South Jackson Street, Waxahachie, TX 75165.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 18, 2024	480798

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Rockwall	City of Fate (23–06–0839P).	The Honorable David Billings, Mayor, City of Fate, 1900 C.D. Boren Parkway, Fate, TX 75087.	City Hall, 1900 C.D. Boren Parkway, Fate, TX 75087.	*https://msc.fema.gov/portal/advanceSearch.*	Dec. 18, 2023	48054
Utah:						
Utah	City of Mapleton, (23–08–0221P).	The Honorable Dallas Hakes, Mayor, City of Mapleton, 125 West 400 North, Mapleton, UT 84664.	Public Works Department, 1405 West 1600 North, Mapleton, UT 84664.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 8, 2024	490156
Virginia:						
Loudoun	Town of Leesburg, (23–03–0038P).	Kaj Dentler, Manager, Town of Leesburg, 25 West Market Street, Leesburg, VA 20176.	Town Hall, 25 West Market Street, Leesburg, VA 20176.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 22, 2024	510091
Loudoun	Town of Leesburg, (23–03–0239P).	Kaj Dentler, Manager, Town of Leesburg, 25 West Market Street, Leesburg, VA 20176.	Town Hall, 25 West Market Street, Leesburg, VA 20176.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 29, 2024	510091
Loudoun	Unincorporated areas of Loudoun County, (23–03–0239P).	Tim Hemstreet, Loudoun County Administrator, 1 Harrison Street, Southeast, 5th Floor, Leesburg, VA 20175.	Loudoun County Government Center, 1 Harrison Street Southeast, 3rd Floor, MSC #60, Leesburg, VA 20175.	*https://msc.fema.gov/portal/advanceSearch.*	Jan. 29, 2024	510090

[FR Doc. 2023–24805 Filed 11–8–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2023–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.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: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations 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.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65. The currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, 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.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov*.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Arizona:					
Maricopa (FEMA Docket No.: B–2302).	City of Buckeye (22–09–0619P).	The Honorable Eric Orsborn, Mayor, City of Buckeye, 530 East Monroe Avenue, Buckeye, AZ 85326.	Engineering Department, 530 East Monroe Avenue, Buckeye, AZ 85326.	Apr. 14, 2023	040039
Maricopa (FEMA Docket No.: B–2302).	City of Goodyear (22–09–0284P).	The Honorable Joe Pizzillo, Mayor, City of Goodyear, 1900 North Civic Square, Goodyear, AZ 85395.	Engineering and Development Services, 14455 West Van Buren Street, Suite D101, Goodyear, AZ 85338.	Apr. 14, 2023	040046
Maricopa (FEMA Docket No.: B–2295).	City of Peoria (22–09–0532P).	The Honorable Jason Beck, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, AZ 85345.	City Hall, 8401 West Monroe Street, Peoria, AZ 85345.	Mar. 24, 2023	040050
Maricopa (FEMA Docket No.: B–2302).	City of Phoenix (22–09–0759P).	The Honorable Kate Gallego, Mayor, City of Phoenix, City Hall, 200 West Washington Street, 11th Floor, Phoenix, AZ 85003.	Street Transportation Department, 200 West Washington Street, 5th Floor, Phoenix, AZ 85003.	Apr. 7, 2023	040051
Maricopa (FEMA Docket No.: B–2326).	City of Scottsdale (22–09–1364P).	The Honorable David Ortega, Mayor, City of Scottsdale, 3939 North Drinkwater Boulevard, Scottsdale, AZ 85251.	Planning Records, 7447 East Indian School Road, Suite 100, Scottsdale, AZ 85251.	Jun. 9, 2023	045012
Maricopa (FEMA Docket No.: B–2295).	Unincorporated Areas of Maricopa County (22–09–0532P).	The Honorable Clint L. Hickman, Chair, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Mar. 24, 2023	040037
Maricopa (FEMA Docket No.: B–2326).	Unincorporated Areas of Maricopa County (22–09–1193P).	The Honorable Clint L. Hickman, Chair, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Jul. 7, 2023	040037
California:					
Los Angeles (FEMA Docket No.: B–2295).	City of Palmdale (20–09–1309P).	The Honorable Laura Bettencourt, Mayor, City of Palmdale, 38300 Sierra Highway, Palmdale, CA 93550.	Public Works Department, 38250 North Sierra Highway, Palmdale, CA 93550.	Feb. 15, 2023	060144
Nevada (FEMA Docket No.: B–2326).	City of Grass Valley (22–09–1769X).	The Honorable Ben Aguilar, Mayor, City of Grass Valley, 125 East Main Street, Grass Valley, CA 95945.	Public Works Department, 125 East Main Street, Grass Valley, CA 95945.	May 31, 2023	060211
Nevada (FEMA Docket No.: B–2326).	Town of Truckee (22–09–0327P).	The Honorable Lindsay Romack, Mayor, Town of Truckee, 10183 Truckee Airport Road, Truckee, CA 96161.	Eric W. Rood Administrative Center, 950 Maidu Avenue, Nevada City, CA 95959.	Jun. 12, 2023	060762
Placer (FEMA Docket No.: B–2295).	Unincorporated Areas of Placer County (21–09–1584P).	The Honorable Cindy Gustafson, Chair, Board of Supervisors, Placer County, 175 Fulweiler Avenue, Auburn, CA 95603.	Placer County Public Works, 3091 County Center Drive, Suite 220, Auburn, CA 95603.	Mar. 20, 2023	060239
Riverside (FEMA Docket No.: B–2311).	Agua Caliente Band of Cahuilla Indian Reservation (21–09–0616P).	The Honorable Reid D. Milanovich, Chair, Tribal Council, Agua Caliente Band of Cahuilla Indians, 5401 Dinah Shore Drive, Palm Springs, CA 92264.	Tribal Administrative Office, Planning and Natural Resources, 5401 Dinah Shore Drive, Palm Springs, CA 92264.	Apr. 28, 2023	060763
Riverside (FEMA Docket No.: B–2326).	City of Corona (22–09–1326P).	The Honorable Tony Daddario, Mayor, City of Corona, 400 South Vicentia Avenue, Corona, CA 92882.	City Hall, 400 South Vicentia Avenue, Corona, CA 92882.	Jun. 5, 2023	060250
Riverside (FEMA Docket No.: B–2326).	City of Corona (22–09–1747P).	The Honorable Tony Daddario, Mayor, City of Corona, 400 South Vicentia Avenue, Corona, CA 92882.	City Hall, 400 South Vicentia Avenue, Corona, CA 92882.	Jul. 10, 2023	060250
Riverside (FEMA Docket No.: B–2295).	City of Lake Elsinore (22–09–0688P).	The Honorable Timothy J. Sheridan, Mayor, City of Lake Elsinore, City Hall, 130 South Main Street, Lake Elsinore, CA 92530.	Engineering Division, 130 South Main Street, Lake Elsinore, CA 92530.	Mar. 2, 2023	060636
Riverside (FEMA Docket No.: B–2326).	City of Menifee (22–09–0396P).	The Honorable Bill Zimmerman, Mayor, City of Menifee, 29844 Haun Road, Menifee, CA 92586.	Public Works and Engineering Department, 29714 Haun Road, Menifee, CA 92586.	Jun. 15, 2023	060176
Riverside (FEMA Docket No.: B–2311).	City of Menifee (22–09–0958P).	The Honorable Bill Zimmerman, Mayor, City of Menifee, 29844 Haun Road, Menifee, CA 92586.	Public Works and Engineering Department, 29714 Haun Road, Menifee, CA 92586.	May 17, 2023	060176
Riverside (FEMA Docket No.: B–2326).	City of Menifee (22–09–1027P).	The Honorable Bill Zimmerman, Mayor, City of Menifee, 29844 Haun Road, Menifee, CA 92586.	Public Works and Engineering Department, 29714 Haun Road, Menifee, CA 92586.	Jun. 30, 2023	060176
Riverside (FEMA Docket No.: B–2326).	City of Moreno Valley (22–09–0975P).	The Honorable Ulises Cabrera, Mayor, City of Moreno Valley, 14177 Frederick Street, Moreno Valley, CA 92553.	Public Works Department, 14177 Frederick Street, Moreno Valley, CA 92552.	Jul. 10, 2023	065074
Riverside (FEMA Docket No.: B–2311).	City of Palm Springs (21–09–0616P).	The Honorable Lisa Middleton, Mayor, City of Palm Springs, 3200 East Tahquitz Canyon Way, Palm Springs, CA 92262.	Public Works and Engineering Department, 3200 East Tahquitz Canyon Way, Palm Springs, CA 92262.	Apr. 28, 2023	060257
Riverside (FEMA Docket No.: B–2326).	Unincorporated Areas of Riverside County (22–09–0281P).	The Honorable Kevin Jeffries, Chair, Board of Supervisors, Riverside County, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County, Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	Jun. 16, 2023	060245

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Riverside (FEMA Docket No.: B–2326).	Unincorporated Areas of Riverside County (22–09–0396P).	The Honorable Kevin Jeffries, Chair, Board of Supervisors, Riverside County, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County, Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	Jun. 15, 2023	060245
Riverside (FEMA Docket No.: B–2311).	Unincorporated Areas of Riverside County (22–09–0446P).	The Honorable Kevin Jeffries, Chair, Board of Supervisors, Riverside County, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County, Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	May 4, 2023	060245
Riverside (FEMA Docket No.: B–2295).	Unincorporated Areas of Riverside County (22–09–0688P).	The Honorable Kevin Jeffries, Chair, Board of Supervisors, Riverside County, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County, Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	Mar. 2, 2023	060245
Riverside (FEMA Docket No.: B–2326).	Unincorporated Areas of Riverside County (22–09–1027P).	The Honorable Kevin Jeffries, Chair, Board of Supervisors, Riverside County, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County, Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	Jun. 30, 2023	060245
Riverside (FEMA Docket No.: B–2326).	Unincorporated Areas of Riverside County (22–09–1747P).	The Honorable Kevin Jeffries, Chair, Board of Supervisors, Riverside County, 4080 Lemon Street, 5th Floor, Riverside, CA 92501.	Riverside County, Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	Jul. 10, 2023	060245
San Diego (FEMA Docket No.: B–2295).	City of Oceanside (21–09–0869P).	The Honorable Esther C. Sanchez, Mayor, City of Oceanside, 300 North Coast Highway, Oceanside, CA 92054.	City Hall, 300 North Coast Highway, Oceanside, CA 92054.	Feb. 21, 2023	060294
San Diego (FEMA Docket No.: B–2302).	City of San Diego (22–09–1348P).	The Honorable Todd Gloria, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, CA 92101.	Development Services Department, 1222 1st Avenue, MS 301, San Diego, CA 92101.	Apr. 24, 2023	060295
San Diego (FEMA Docket No.: B–2326).	City of San Marcos (22–09–1048P).	The Honorable Rebecca Jones, Mayor, City of San Marcos, 1 Civic Center Drive, San Marcos, CA 92069.	City Hall, 1 Civic Center Drive, San Marcos, CA 92069.	Jul. 5, 2023	060296
San Diego (FEMA Docket No.: B–2295).	Unincorporated Areas of San Diego County (22–09–0266P).	The Honorable Nora Vargas, Chair, Board of Supervisors, San Diego County, 1600 Pacific Highway Room 335, San Diego, CA 92101.	San Diego County Flood Control District, Department of Public Works, 5510 Overland Avenue Suite 410, San Diego, CA 92123.	Mar. 1, 2023	060284
Santa Clara (FEMA Docket No.: B–2295).	Unincorporated Areas of Santa Clara County (22–09–0043P).	The Honorable Susan Ellenberg, President, Board of Supervisors, Santa Clara County, 70 West Hedding Street 10th Floor East Wing, San Jose, CA 95110.	Santa Clara County, Department of Planning and Development, 70 West Hedding Street, 7th Floor East Wing, San Jose, CA 95110.	Mar. 23, 2023	060337
Sonoma (FEMA Docket No.: B–2311).	City of Santa Rosa (22–09–0905P).	The Honorable Chris Rogers, Mayor, City of Santa Rosa, 100 Santa Rosa Avenue Room 10, Santa Rosa, CA 95404.	City Hall, Engineering Division, 100 Santa Rosa Avenue, Room 3, Santa Rosa, CA 95404.	May 4, 2023	060381
Sonoma (FEMA Docket No.: B–2311).	Unincorporated Areas of Sonoma County (22–09–0905P).	The Honorable Lynda Hopkins, Chair, Board of Supervisors, Sonoma County, 575 Administration Drive, Room 100A, Santa Rosa, CA 95403.	Sonoma County, Permit and Resource Management, 2550 Ventura Avenue, Santa Rosa, CA 95403.	May 4, 2023	060375
Ventura (FEMA Docket No.: B–2295).	City of Simi Valley (22–09–0287P).	The Honorable Fred D. Thomas, Mayor, City of Simi Valley, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	City Hall, 2929 Tapo Canyon Road, Simi Valley, CA 93063.	Mar. 3, 2023	060421
Florida:					
Duval (FEMA Docket No.: B–2302).	City of Jacksonville (21–04–5039P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Jacksonville, FL 32202.	Apr. 14, 2023	120077
Duval (FEMA Docket No.: B–2302).	City of Jacksonville (22–04–0449P).	The Honorable Lenny Curry, Mayor, City of Jacksonville, 117 West Duval Street, Suite 400, Jacksonville, FL 32202.	City Hall, 117 West Duval Street, Jacksonville, FL 32202.	Apr. 19, 2023	120077
Nassau (FEMA Docket No.: B–2326).	Unincorporated Areas of Nassau County (22–04–3256P).	Taco Pope, County Manager, Nassau County, County Manager's Office, 96135 Nassau Place, Suite 1, Yulee, FL 32097.	Nassau County Building Department, 96161 Nassau Place, Yulee, FL 32097.	Jun. 22, 2023	120170
Orange (FEMA Docket No.: B–2302).	City of Orlando (22–04–0252P).	The Honorable Buddy Dyer, Mayor, City of Orlando, 400 South Orange Avenue, Orlando, FL 32801.	City Hall, Permitting Services, 400 South Orange Avenue, 1st Floor, Orlando, FL 32801.	Apr. 4, 2023	120186
Walton (FEMA Docket No.: B–2302).	Unincorporated Areas of Walton County (22–04–2584P).	Chair Trey Nick, Walton County, 263 Chaffin Avenue, DeFuniak Springs, FL 32433.	Walton Building Department, Walton County Courthouse Annex, 6th Street, Sloss Avenue, DeFuniak Springs, FL 32433.	Apr. 27, 2023	120317
Hawaii: Honolulu (FEMA Docket No.: B–2311).	City and County of Honolulu (22–09–0548P).	The Honorable Rick Blangiardi, Mayor, City and County of Honolulu, 530 South King Street Room 300, Honolulu, HI 96813.	Department of Planning and Permitting, 650 South King Street 1st Floor, Honolulu, HI 96813.	May 3, 2023	150001
Idaho:					
Ada (FEMA Docket No.: B–2295).	Unincorporated Areas of Ada County (21–10–0367P).	Chair Rod Beck, Ada County Board of County Commissioners, 200 West Front Street, 3rd Floor, Boise, ID 83702.	Ada County Development Service Office, 650 Main Street, Boise, ID 83702.	Mar. 30, 2023	160001

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Ada (FEMA Docket No.: B–2302).	Unincorporated Areas of Ada County (22–10–0556P).	Chair Rod Beck, Ada County Board of County Commissioners, 200 West Front Street, 3rd Floor, Boise, ID 83702.	Ada County Development Service Office, 650 Main Street, Boise, ID 83702.	Apr. 4, 2023	160001
Bonneville (FEMA Docket No.: B–2295).	City of Ammon (21–10–1025P).	The Honorable Sean Coletti, Mayor, City of Ammon, 2135 South Ammon Road, Ammon, ID 83406.	City Hall, 2135 South Ammon Road, Ammon, ID 83406.	Feb. 1, 2023	160028
Bonneville (FEMA Docket No.: B–2295).	Unincorporated Areas of Bonneville County (21–10–1025P).	Chair Roger Christensen, Bonneville County Board of Commissioners, 605 North Capital Avenue, Idaho Falls, ID 83402.	Bonneville County Courthouse, 605 North Capital Avenue, Idaho Falls, ID 83402.	Feb. 1, 2023	160027
Canyon (FEMA Docket No.: B–2326).	City of Caldwell (22–10–0547P).	The Honorable Jarom Wagoner, Mayor, City of Caldwell, City Hall, 411 Blaine Street, Caldwell, ID 83605.	City Hall, 621 Cleveland Boulevard, 2nd Floor, Caldwell, ID 83605.	Jul. 3, 2023	160036
Illinois:					
Cook (FEMA Docket No.: B–2326).	City of Calumet City (22–05–1085P).	The Honorable Thaddeus M. Jones, Mayor, City of Calumet City, 204 Pulaski Road, Calumet City, IL 60409.	City Hall, 204 Pulaski Road, Calumet City, IL 60409.	Jun. 29, 2023	170072
Cook (FEMA Docket No.: B–2295).	City of Country Club Hills (22–05–2868P).	The Honorable James W. Ford, Mayor, City of Country Club Hills, 4200 West Main Street, Country Club Hills, IL 60478.	City Hall, 4200 West Main Street, Country Club Hills, IL 60478.	Mar. 14, 2023	170078
Cook (FEMA Docket No.: B–2302).	City of Elgin (22–05–0345P).	The Honorable David Kaptain, Mayor, City of Elgin, 150 Dexter Court, Elgin, IL 60120.	Public Works Department, Engineering Department, 150 Dexter Court, Elgin, IL 60120.	Mar. 27, 2023	170087
Cook (FEMA Docket No.: B–2358).	Unincorporated Areas of Cook County (20–05–1896P).	Toni Preckwinkle, President, Cook County Board of Commissioners, 118 North Clark Street, Room 537, Chicago, IL 60602.	Cook County Building and Zoning Department, 69 West Washington Street, 28th Floor, Chicago, IL 60602.	Oct. 6, 2023	170054
Cook (FEMA Docket No.: B–2302).	Unincorporated Areas of Cook County (22–05–0345P).	Toni Preckwinkle, President, Cook County Board of Commissioners, 118 North Clark Street Room 537, Chicago, IL 60602.	Cook County Building and Zoning Department, 69 West Washington Street, 28th Floor, Chicago, IL 60602.	Mar. 27, 2023	170054
Cook (FEMA Docket No.: B–2349).	Village of Palatine (22–05–2450P).	The Honorable Jim Schwantz, Mayor, Village of Palatine, 200 East Wood Street, Palatine, IL 60067.	Village Hall, 200 East Wood Street, Palatine, IL 60067.	Sep. 15. 2023	175170
Cook (FEMA Docket No.: B–2358).	Village of Richton Park (20–05–1896P).	Rick Reinbold, Village President, Village of Richton Park, 4455 Sauk Trail, Richton Park, IL 60471.	Municipal Building, 4455 Sauk Trail, Richton Park, IL 60471.	Oct. 6, 2023	170149
Cook (FEMA Docket No.: B–2326).	Village of South Holland (22–05–1085P).	The Honorable Don A. De Graff, Mayor, Village of South Holland, Village Hall, 16226 Wausau Avenue, South Holland, IL 60473.	Planning & Development Department, 16226 Wausau Avenue, South Holland, IL 60473.	Jun. 29, 2023	170163
Cook and DuPage (FEMA Docket No.: B–2302).	Village of Bartlett (22–05–0345P).	Kevin Wallace, Village President, Village of Bartlett, 228 South Main Street, Bartlett, IL 60103.	Village Hall, 228 South Main Street, Bartlett, IL 60103.	Mar. 27, 2023	170059
Grundy (FEMA Docket No.: B–2349).	City of Morris (23–05–0362P).	The Honorable Chris Brown, Mayor, City of Morris, 700 North Division Street, Morris, IL 60450.	City Hall, 700 North Division Street, Morris, IL 60450.	Aug. 24, 2023	170263
Grundy (FEMA Docket No.: B–2349) .	Unincorporated Areas of Grundy County (23–05–0362P).	Chris Balkema, Chair, Grundy County Board, Grundy County Administration Building, 1320 Union Street, Morris, IL 60450.	Grundy County Administration Building, 1320 Union Street, Morris, IL 60450.	Aug. 24, 2023	170256
Kane (FEMA Docket No.: B–2295).	City of Aurora (22–05–1707P).	The Honorable Richard C. Irvin, Mayor, City of Aurora, 44 East Downer Place, Aurora, IL 60505.	City Hall, Engineering Department, 44 East Downer Place, Aurora, IL 60505.	Mar. 10, 2023	170320
Kane (FEMA Docket No.: B–2302).	City of St. Charles (22–05–2140P).	The Honorable Lora Vitek, Mayor, City of St. Charles, City Hall, 2 East Main Street, St. Charles, IL 60174.	City Hall, 2 East Main Street, St. Charles, IL 60174.	Apr. 18, 2023	170330
Kane (FEMA Docket No.: B–2295).	Unincorporated Areas of Kane County (22–05–1707P).	Corinne Pierog, Chair, Kane County Board, Kane County Government Center, 719 Batavia Avenue Building A, Geneva, IL 60134.	Water Resources Department, Kane County Government Center, 719 South Batavia Avenue, Building A, Geneva, IL 60134.	Mar. 10, 2023	170896
Lake (FEMA Docket No.: B–2358).	Village of Mundelein (23–05–0305P).	The Honorable Steve Lentz, Mayor, Village of Mundelein, 300 Plaza Circle, Mundelein, IL 60060.	Village Hall, 300 Plaza Circle, Mundelein, IL 60060.	Oct. 10, 2023	170382
Lake (FEMA Docket No.: B–2358).	Village of Vernon Hills (23–05–0305P).	Roger Byrne, Village President Village of Vernon Hills, 290 Evergreen Drive, Vernon Hills, IL 60061.	Village Hall, 290 Evergreen Drive, Vernon Hills, IL 60061.	Oct. 10, 2023	170394
McHenry (FEMA Docket No.: B–2295).	Unincorporated Areas of McHenry County (22–05–1881P).	The Honorable Michael Buehler, Chair, McHenry County Board, McHenry County Government Center, 2200 North Seminary Avenue, Woodstock, IL 60098.	McHenry County Government Center, 2200 North Seminary Avenue, Woodstock, IL 60098.	Feb. 6, 2023	170732
Will (FEMA Docket No.: B–2349).	City of Aurora (23–05–0786P).	The Honorable Richard C. Irvin, Mayor, City of Aurora, 44 East Downer Place, Aurora, IL 60505.	City Hall, Engineering Department, 44 East Downer Place, Aurora, IL 60505.	Aug. 28, 2023	170320

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Will (FEMA Docket No.: B–2326).	City of Naperville (22–05–3407P).	The Honorable Scott A. Wehrli, Mayor, City of Naperville, Municipal Center, 400 South Eagle Street, Naperville, IL 60540.	Municipal Center, 400 South Eagle Street, Naperville, IL 60540.	Jun. 29, 2023	170213
Will (FEMA Docket No.: B–2338).	City of Wilmington (22–05–2769P).	The Honorable Ben Dietz, Mayor, City of Wilmington, 1165 South Water Street, Wilmington, IL 60481.	City Hall, 1165 South Water Street, Wilmington, IL 60481.	Jul. 13, 2023	170715
Will (FEMA Docket No.: B–2338).	Unincorporated Areas of Will County (22–05–2410P).	Jennifer Bertino-Tarrant, Will County Executive, Will County Office Building, 302 North Chicago Street, Joliet, IL 60432.	Will County Land Use Department, 58 East Clinton Street, Suite 100, Joliet, IL 60432.	Jul. 13, 2023	170695
Will (FEMA Docket No.: B–2338).	Unincorporated Areas of Will County (22–05–2769P).	Jennifer Bertino-Tarrant, Will County Executive, Will County Office Building, 302 North Chicago Street, Joliet, IL 60432.	Will County Land Use Department, 58 East Clinton Street, Suite 100, Joliet, IL 60432.	Jul. 13, 2023	170695
Will (FEMA Docket No.: B–2349).	Unincorporated Areas of Will County (23–05–0786P).	Jennifer Bertino-Tarrant, Will County Executive, Will County Office Building, 302 North Chicago Street, Joliet, IL 60432.	Will County Land Use Department, 58 East Clinton Street, Suite 100, Joliet, IL 60432.	Aug., 28, 2023	170695
Will (FEMA Docket No.: B–2349).	Village of New Lenox (23–05–0608P).	The Honorable Timothy A. Baldermann, Mayor, Village of New Lenox, 1 Veterans Parkway, New Lenox, IL 60451.	Village Hall, 1 Veterans Parkway, New Lenox, IL 60451.	Sep. 15, 2023	170706
Will (FEMA Docket No.: B–2295).	Village of Plainfield (22–05–2125P).	John F. Argoudelis, Village President, Village of Plainfield, 24401 West Lockport Street, Plainfield, IL 60544.	Village Hall, 24401 West Lockport Street, Plainfield, IL 60544.	Mar. 22, 2023	170771
Will (FEMA Docket No.: B–2338).	Village of Plainfield (22–05–2410P).	John F. Argoudelis, Village President, Village of Plainfield, 24401 West Lockport Street, Plainfield, IL 60544.	Village Hall, 24401 West Lockport Street, Plainfield, IL 60544.	Jul. 13, 2023	170771
Will (FEMA Docket No.: B–2349).	Village of Romeoville (23–05–0857P).	The Honorable John D. Noak, Mayor, Village of Romeoville, 1050 West Romeo Road, Romeoville, IL 60446.	Village Hall, 1050 West Romeo Road, Romeoville, IL 60446.	Oct. 2, 2023	170711
Indiana:					
Hamilton (FEMA Docket No.: B–2311).	City of Noblesville (22–05–1795P).	The Honorable Chris Jensen, Mayor, City of Noblesville, City Hall, 16 South 10th Street, Noblesville, IN 46060.	Planning Department, 16 South 10th Street, Suite 150, Noblesville, IN 46060.	Apr. 6, 2023	180082
Lake (FEMA Docket No.: B–2295).	City of Hammond (22–05–2665P).	The Honorable Thomas M. McDermott, Jr., Mayor, City of Hammond, City Hall, 5925 Calumet Avenue, Hammond, IN 46320.	City Hall, 5925 Calument Avenue, Hammond, IN 46320.	Jan. 26, 2023	180134
Lake (FEMA Docket No.: B–2311).	Town of St. John (21–05–3750P).	Chair Mike Aurelio, St. John Town Council, Municipal Offices, 10995 West 93rd Avenue, St. John, IN 46373.	Town Clerk's Office, 10955 West 93rd Avenue, St. John, IN 46373.	May 11, 2023	180141
Lake (FEMA Docket No.: B–2311).	Unincorporated Areas of Lake County (21–05–3750P).	Ted Bilski, President, Lake County Council, 2293 North Main Street, Building 'A', 3rd Floor, Crown Point, IN 46307.	Lake County Building, 2293 North Main Street, Crown Point, IN 46307.	May 11, 2023	180126
Monroe (FEMA Docket No.: B–2326).	City of Bloomington (22–05–1490P).	The Honorable John Hamilton, Mayor, City of Bloomington, 401 North Morton Street Suite 210, Bloomington, IN 47404.	Planning Department, 401 North Morton Street, Bloomington, IN 47402.	Jul. 5, 2023	180169
Monroe (FEMA Docket No.: B–2326).	Unincorporated Areas of Monroe County (22–05–1490P).	Julie Thomas, Commissioner—District 2, Monroe County Board of Commissioners, Monroe County Courthouse, 100 West Kirkwood Avenue, Bloomington, IN 47404.	Monroe County Courthouse, 100 West Kirkwood Avenue, Room 306, Bloomington, IN 47404.	Jul. 5, 2023	180444
Kansas:					
Reno (FEMA Docket No.: B–2302).	City of Hutchinson (22–07–0572P).	The Honorable Jade Piros De Carvalho, Mayor, City of Hutchinson, 125 East Avenue B, Hutchinson, KS 67501.	City Hall, 125 East Avenue B, Hutchinson, KS 67501.	Apr. 3, 2023	200283
Reno (FEMA Docket No.: B–2302).	Unincorporated Areas of Reno County (22–07–0572P).	Daniel Friesen, Chair, Reno County Commissioner, 206 West 1st Avenue, Hutchinson, KS 67501.	Reno County Public Works Department, 600 Scott Boulevard, South Hutchinson, KS 67505.	Apr. 3, 2023	200567
Michigan:					
Grand Traverse (FEMA Docket No.: B–2295).	Charter Township of Garfield (22–05–0580P).	Supervisor Chuck Korn, Township Board of Trustees, The Charter Township of Garfield, 3848 Veterans Drive, Traverse City, MI 49684.	Township Hall, 3848 Veterans Drive, Traverse City, MI 49684.	Jan. 23, 2023	260753
Grand Traverse (FEMA Docket No.: B–2295).	Township of Blair (22–05–0580P).	Supervisor Nicole Blonshine, Township of Blair, 2121 County Road 633, Grawn, MI 49637.	Township Hall, 2121 County Road 633, Grawn, MI 49637.	Jan. 23, 2023	260780
Oakland (FEMA Docket No.: B–2302).	City of Novi (22–05–0343P).	The Honorable Bob Gatt, Mayor, City of Novi, Civic Center, 45175 West Ten Mile Road, Novi, MI 48375.	Civic Center, 45175 West Ten Mile Road, Novi, MI 48375.	Mar. 10, 2023	260175
Minnesota:					
Anoka (FEMA Docket No.: B–2302).	City of Lino Lakes (22–05–1976P).	The Honorable Rob Rafferty, Mayor, City of Lino Lakes, City Hall, 600 Town Center Parkway, Lino Lakes, MN 55014.	City Hall, 600 Town Center Parkway, Lino Lakes, MN 55014.	Mar. 22, 2023	270015

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Dakota (FEMA Docket No.: B–2302).	Unincorporated Areas of Dakota County (22–05–1797P).	Commissioner Mike Slavik, District 1, Dakota County, Administration Center, 1590 Highway 55, Hastings, MN 55033.	Dakota County Administration Center, 1590 Highway 55, Hastings, MN 55033.	Apr. 17, 2023	270101
Hennepin (FEMA Docket No.: B–2326).	City of Plymouth (22–05–2089P).	The Honorable Jeffry Wosje, Mayor, City of Plymouth, 3400 Plymouth Boulevard, Plymouth, MN 55447.	City Hall, 3400 Plymouth Boulevard, Plymouth, MN 55447.	Jun. 30, 2023	270179
Redwood (FEMA Docket No.: B–2311).	City of Redwood Falls (22–05–1715P).	The Honorable Gary Revier, Mayor, City of Redwood Falls, P.O. Box 526, Redwood Falls, MN 56283.	City Office, 333 South Washington Street, Redwood Falls, MN 56283.	May 5, 2023	270393
Redwood (FEMA Docket No.: B–2311).	Unincorporated Areas of Redwood County (22–05–1715P).	Chair Priscilla Klabunde, Board of Redwood County Commissioners, P.O. Box 130, Redwood Falls, MN 56283.	Redwood County Government Center, 403 South Mill Street, Redwood Falls, MN 56283.	May 5, 2023	270644
Wabasha (FEMA Docket No.: B–2326).	City of Mazeppa (22–05–2195P).	The Honorable Chris Hagfors, Mayor, City of Mazeppa, 121 Maple Street, Mazeppa, MN 55956.	City Hall, 1st and Maple Streets, Mazeppa, MN 55957.	Jun. 15, 2023	270487
Missouri: Jackson (FEMA Docket No.: B–2311).	City of Lee's Summit (22–07–0797P).	The Honorable Bill Baird, Mayor, City of Lee's Summit, 220 Southeast Green Street, Lee's Summit, MO 64063.	Mayor's Office, 207 Southwest Market Street, Lee's Summit, MO 64063.	May 8, 2023	290174
Nebraska:					
Lancaster (FEMA Docket No.: B–2326).	City of Lincoln (22–07–0708P).	The Honorable Leirion Gaylor Baird, Mayor, City of Lincoln, 555 South 10th Street, Lincoln, NE 68508.	Building & Safety Department, 555 South 10th Street, Lincoln, NE 68508.	May 23, 2023	315273
Lancaster (FEMA Docket No.: B–2311).	City of Lincoln (22–07–0792P).	The Honorable Leirion Gaylor Baird, Mayor, City of Lincoln, 555 South 10th Street Suite 301, Lincoln, NE 68508.	Building and Safety Department, 555 South 10th Street, Lincoln, NE 68508.	May 12, 2023	315273
Lancaster (FEMA Docket No.: B–2302).	City of Lincoln (22–07–0824P).	The Honorable Leirion Gaylor Baird, Mayor, City of Lincoln, 555 South 10th Street Suite 301, Lincoln, NE 68508.	Building and Safety Department, 555 South 10th Street, Lincoln, NE 68508.	Apr. 26, 2023	315273
Lancaster (FEMA Docket No.: B–2326).	Unincorporated Areas of Lancaster County (22–07–0708P).	Chair Deb Schorr, Lancaster County Board of Commissioners, 555 South 10th Street Room 110, Lincoln, NE 68508.	Lancaster County Building & Safety Department, 555 South 10th Street, Lincoln, NE 68508.	May 23, 2023	310134
Nevada:					
Clark (FEMA Docket No.: B–2295).	City of Henderson (22–09–0282P).	The Honorable Michelle Romero, Mayor, City of Henderson, 240 South Water Street, Henderson, NV 89015.	Public Works Department, 240 South Water Street, Henderson, NV 89015.	Feb. 15, 2023	320005
Clark (FEMA Docket No.: B–2326).	City of Henderson (22–09–1370P).	The Honorable Michelle Romero, Mayor, City of Henderson, City Hall, 240 South Water Street, Henderson, NV 89015.	Public Works Department, 240 South Water Street, Henderson, NV 89015.	Jun. 8, 2023	320005
Clark (FEMA Docket No.: B–2295).	Unincorporated Areas of Clark County (22–09–0282P).	The Honorable James B. Gibson, Chair, Board of Commissioners, Clark County, 500 South Grand Central Parkway, 6th Floor, Las Vegas, NV 89155.	Clark County, Office of the Director of Public Works, 500 South Grand Central Parkway, 2nd Floor, Las Vegas, NV 89155.	Feb. 15, 2023	320003
Clark (FEMA Docket No.: B–2311).	Unincorporated Areas of Clark County (22–09–1177P).	The Honorable James B. Gibson, Chair, Board of Commissioners, Clark County, 500 South Grand Central Parkway, 6th Floor, Las Vegas, NV 89155.	Clark County, Office of the Director of Public Works, 500 South Grand Central Parkway, 2nd Floor, Las Vegas, NV 89155.	May 4, 2023	320003
New York:					
Erie (FEMA Docket No.: B–2295).	Town of Clarence (22–02–0024P).	Supervisor Patrick Casilio, Town of Clarence, 95 Franklin Street, Buffalo, NY 14202.	Town Hall, 1 Town Place, Clarence, NY 14031.	Mar. 7, 2023	360232
Nassau (FEMA Docket No.: B–2295).	City of Long Beach (21–02–0901P).	President Karen McInnis, City Council, City of Long Beach, City Hall, 1 West Chester Street, Long Beach, NY 11561.	City Hall, 1 West Chester Street, Long Beach, NY 11561.	Apr. 5, 2023	365338
Nassau (FEMA Docket No.: B–2295).	Town of Hempstead (21–02–0901P).	Supervisor Donald X. Clavin, Jr., Town of Hempstead, 1 Washington Street, Hempstead, NY 11550.	Town Hall, 1 Hempstead Street, Hempstead, NY 11550.	Apr. 5, 2023	360467
Rockland (FEMA Docket No.: B–2302).	Village of Spring Valley (22–02–0020P).	The Honorable Alan M. Simon, Mayor, Village of Spring Valley, 200 North Main Street, Spring Valley, NY 10977.	Building Department, 200 North Main Street, Spring Valley, NY 10977.	May 23, 2023	365344
Ohio:					
Fairfield (FEMA Docket No.: B–2326).	City of Pickerington (22–05–1171P).	The Honorable Lee A. Gary, Mayor, City of Pickerington, 100 Lockville Road, Pickerington, OH 43147.	City Hall, 51 East Columbus Street, Pickerington, OH 43147.	May 25, 2023	390162
Fairfield (FEMA Docket No.: B–2326).	Unincorporated Areas of Fairfield County (22–05–1171P).	Jeffery Fix, Fairfield County Commissioner, 210 East Main Street, Room 302, Lancaster, OH 43130.	Fairfield County Regional Planning Commission, 210 East Main Street, Room 104, Lancaster, OH 43130.	May 25, 2023	390158

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Hamilton (FEMA Docket No.: B–2295).	Unincorporated Areas of Hamilton County (22–05–2681P).	President Stephanie Summerow Dumas, Hamilton County Board of Commissioners, 138 East Court Street Room 603, Cincinnati, OH 45202.	Hamilton County Department of Public Works, 138 East Court Street, Room 800, Cincinnati, OH 45202.	Feb. 2, 2023	390204
Miami (FEMA Docket No.: B–2295).	City of Piqua (22–05–2031P).	Manager Paul L. Oberdorfer, City of Piqua, 201 West Water Street, Piqua, OH 45356.	City Hall, 201 West Water Street, Piqua, OH 45356.	Mar. 10, 2023	390400
Miami (FEMA Docket No.: B–2295).	Unincorporated Areas of Miami County (22–05–2031P).	President Ted S. Mercer, Miami County Board of Commissioners, 201 West Main Street, Troy, OH 45373.	Miami County Safety Building, 201 West Water Street, Troy, OH 45356.	Mar. 10, 2023	390398
Texas:					
Williamson (FEMA Docket No.: B–2311).	City of Hutto (22–06–1965P).	The Honorable Mike Snyder, Mayor, City of Hutto, 500 West Live Oak Street, Hutto, TX 78634.	City Hall, 500 West Live Oak Street, Hutto, TX 78634.	Apr. 17, 2023	481047
Williamson (FEMA Docket No.: B–2302).	City of Round Rock (22–06–1378P).	The Honorable Craig Morgan, Mayor, City of Round Rock, City Hall, 221 East Main Street, Round Rock, TX 78664.	Transportation Department, 2008 Enterprise Drive, Round Rock, TX 78664.	Apr. 5, 2023	481048
Washington:					
Benton (FEMA Docket No.: B–2295).	City of Richland (21–10–0652P).	The Honorable Michael Alvarez, Mayor, City of Richland, 625 Swift Boulevard, MS 04, Richland, WA 99352.	City Hall, 625 Swift Boulevard, Richland, WA 99352.	Jan. 12, 2023	535533
Chelan (FEMA Docket No.: B–2295).	City of Chelan (22–10–0154P).	The Honorable John Olson, Mayor, City of Chelan, P.O. Box 1669, Chelan, WA 98816.	City Hall, 135 East Johnson, Chelan, WA 98816.	Jan. 19, 2023	530017
Chelan (FEMA Docket No.: B–2311).	Unincorporated Areas of Chelan County (22–10–0970P).	Cathy Mulhall, Chelan County Administrator, 400 Douglas Street, Suite 401, Wenatchee, WA 98801.	Chelan County, Department of Public Works, 350 Orondo Street, Wenatchee, WA 98801.	Apr. 27, 2023	530015
Clark (FEMA Docket No.: B–2311).	City of Woodland (23–10–0005P).	The Honorable William Finn, Mayor, City of Woodland, P.O. Box 9, Woodland, WA 98674.	City Hall, 230 Davidson Avenue, Woodland, WA 98674.	May 11, 2023	530035
Clark (FEMA Docket No.: B–2311).	Unincorporated Areas of Clark County (23–10–0005P).	Karen Dill Bowerman, County Councilor, District 3, Clark County, P.O. Box 5000 Vancouver, WA 98666.	Clark County, 1300 Franklin Street, Vancouver, WA 98660.	May 11, 2023	530024
Cowlitz (FEMA Docket No.: B–2311).	Unincorporated Areas of Cowlitz County (23–10–0005P).	Arne Mortensen, County Commissioner, Cowlitz County, 207 4th Avenue North Room 305, Kelso, WA 98626.	Cowlitz Administration Building, 207 4th Avenue North Room 305, Kelso, WA 98626.	May 11, 2023	530032
Spokane (FEMA Docket No.: B–2326).	Unincorporated Areas of Spokane County (22–10–0742P).	Scott Simmons, Chief Executive Officer, Spokane County, 1116 West Broadway Avenue, Spokane, WA 99260.	Spokane County, Public Works Building, 1026 West Broadway Avenue, Spokane, WA 99260.	Jun. 1, 2023	530174
Whatcom (FEMA Docket No.: B–2326).	City of Lynden (22–10–0639P).	The Honorable Scott Korthuis, Mayor, City of Lynden, City Hall, 300 4th Street, Lynden, WA 98264.	City Hall, 300 4th Street, Lynden, WA 98264.	Jun. 29, 2023	530202
Whitman (FEMA Docket No.: B–2295).	Unincorporated Areas of Whitman County (21–10–1053P).	Chair Michael Largent, Whitman County Board of Commissioners, 400 North Main Street, Colfax, WA 99111.	Whitman County City Government Office, 400 North Main Street, Colfax, WA 99111.	Feb. 10, 2023	530205
Wisconsin:					
Brown (FEMA Docket No.: B–2295).	Unincorporated Areas of Brown County (21–05–4734P).	Executive Troy Streckenbach, Brown County, P.O. Box 23600, Green Bay, WI 54305.	Brown County, Zoning Office, 305 East Walnut Street, Green Bay, WI 54301.	Feb. 16, 2023	550020
Marathon (FEMA Docket No.: B–2295).	City of Mosinee (21–05–4158P).	Administrator Jeff Gates, City of Mosinee, 225 Main Street, Mosinee, WI 54455.	City Hall, 225 Main Street, Mosinee, WI 54455.	Jan. 13, 2023	555567
Marathon (FEMA Docket No.: B–2295).	Village of Kronenwetter (21–05–4158P).	President Chris Voll, Village Board of Kronenwetter, 1582 Kronenwetter Drive, Kronenwetter, WI 54455.	Municipal Center, 1582 Kronenwetter Drive, Mosinee, WI 54455.	Jan. 13, 2023	550193
Marathon (FEMA Docket No.: B–2295).	Village of Rothschild (21–05–4158P).	President George Peterson, Village of Rothschild Board of Trustees, Village Hall, 211 Grand Avenue, Rothschild, WI 54474.	Village Hall, 211 Grand Avenue, Rothschild, WI 54474.	Jan. 13, 2023	555577
Milwaukee (FEMA Docket No.: B–2302).	City of Milwaukee (21–05–3522P).	The Honorable Cavalier Johnson, Mayor, City of Milwaukee, 200 East Wells Street, Room 201, Milwaukee, WI 53202.	City Hall, 200 East Wells Street, Milwaukee, WI 53202.	Apr. 6, 2023	550278
Outagamie (FEMA Docket No.: B–2326).	Village of Shiocton (22–05–2012P).	Terri James, Village President, Village of Shiocton, Village Hall, P.O. Box 96, Shiocton, WI 54170.	Village Hall, N5605 State Road 76, Shiocton, WI 54170.	May 30, 2023	550309
Portage (FEMA Docket No.: B–2326).	Unincorporated Areas of Portage County (23–05–0737X).	Chair Al Haga, Jr., Portage County, Board of Supervisors, 2140 Norway Pine Drive, Plover, WI 54467.	Portage County Courthouse, 1516 Church Street, Stevens Point, WI 54481.	Jun. 5, 2023	550572
Racine (FEMA Docket No.: B–2326).	City of Racine (22–05–0143P).	The Honorable Cory Mason, Mayor, City of Racine, City Hall, 730 Washington Avenue Room 201, Racine, WI 53403.	City Hall, 730 Washington Avenue, Racine, WI 53403.	Jun. 29, 2023	555575

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Racine (FEMA Docket No.: B–2326).	Village of Mount Pleasant (22–05–0143P).	The Honorable Dave Degroot, President, Village of Mount Pleasant, Village Hall, 8811 Campus Drive, Mount Pleasant, WI 53406.	Village Hall, 8811 Campus Drive, Mount Pleasant, WI 53406.	Jun. 29, 2023	550322
Racine (FEMA Docket No.: B–2326).	Village of Sturtevant (22–05–0143P).	The Honorable Mike Rosenbaum, President, Village of Sturtevant, 2801 89th Street, Sturtevant, WI 53177.	Village Hall, 2801 89th Street, Sturtevant, WI 53177.	Jun. 29, 2023	550353
Racine (FEMA Docket No.: B–2295).	Village of Sturtevant (22–05–1365P).	President Mike Rosenbaum, Village Board, Village of Sturtevant, 2801 89th Street, Sturtevant, WI 53177.	Village Hall, 2801 89th Street, Sturtevant, WI 53177.	Feb. 27, 2023	550353
Sheboygan (FEMA Docket No.: B–2295).	Unincorporated Areas of Sheboygan County (22–05–2161P).	Chair Vernon C. Koch, Sheboygan County Board of Supervisors, 508 New York Avenue Room 311, Sheboygan, WI 53081.	Sheboygan County Administrative Building, 508 New York Avenue, Sheboygan, WI 53081.	Feb. 10, 2023	550424
Sheboygan (FEMA Docket No.: B–2295).	Village of Random Lake (22–05–2161P).	President Michael San Felippo, Village Board, Village of Random Lake, 96 Russell Drive, Random Lake, WI 53075.	Village Hall, 96 Russell Drive, Random Lake, WI 53075.	Feb. 10, 2023	550429

[FR Doc. 2023–24798 Filed 11–8–23; 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–2385]

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 February 7, 2024.

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–2385, 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.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Shelby County, Alabama and Incorporated Areas Project: 18–04–0029S Preliminary Date: May 8, 2020	
City of Calera	Engineering Department, 1074 10th Street, Calera, AL 35040.
Bourbon County, Kansas and Incorporated Areas Project: 21–07–0020S Preliminary Date: June 12, 2023	
City of Bronson	City Hall, 505 Clay Street, Bronson, KS 66716.
City of Fort Scott	City Hall, 123 South Main Street, Fort Scott, KS 66701.
City of Fulton	City Hall, 214 West Osage Street, Fulton, KS 66738.
City of Mapleton	Community Center, 565 North Eldora Street, Mapleton, KS 66754.
City of Redfield	Community Center, 312 North Pine Street, Redfield, KS 66769.
Unincorporated Areas of Bourbon County	Bourbon County Courthouse, 210 South National Avenue, Fort Scott, KS 66701.
Linn County, Kansas and Incorporated Areas Project: 21–07–0020S Preliminary Date: July 26, 2023	
City of Blue Mound	City Hall, 411 East Main Street, Blue Mound, KS 66010.
City of La Cygne	City Hall, 206 Commercial Street, La Cygne, KS 66040.
City of Linn Valley	City Hall, 22412 East 2400 Road, Linn Valley, KS 66040.
City of Mound City	City Hall, 112 South 2nd Street, Mound City, KS 66056.
City of Parker	City Hall, 314 West Main Street, Parker, KS 66072.
City of Pleasanton	City Hall, 1608 Laurel Street, Pleasanton, KS 66075.
City of Prescott	City Hall, 202 West 4th Street, Prescott, KS 66767.
Unincorporated Areas of Linn County	Linn County Planning and Zoning, 306 Main Street, Mound City, KS 66056.

[FR Doc. 2023–24801 Filed 11–8–23; 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–2384]

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 February 7, 2024.

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–2384, 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.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Chippewa County, Minnesota and Incorporated Areas Project: 14–05–9588S Preliminary Date: December 20, 2022	
City of Clara City	City Hall, 215 1st Street NW, Clara City, MN 56222.
City of Maynard	City Hall, 321 Mabel Street, Maynard, MN 56260.
City of Milan	City Hall, 244 North 2nd Street, Milan, MN 56262.
City of Montevideo	City Hall, 103 Canton Avenue, Montevideo, MN 56265.
Unincorporated Areas of Chippewa County	Chippewa County Court House, 629 North 11th Street, Montevideo, MN 56265.
Rockingham County, New Hampshire (All Jurisdictions) Project: 15–01–0632S Preliminary Date: May 05, 2023	
Town of Atkinson	Town Hall, 19 Academy Avenue, Atkinson, NH 03811.
Town of Auburn	Town Office, 47 Chester Road, Auburn, NH 03032.
Town of Candia	Town Office, 74 High Street, Candia, NH 03034.
Town of Chester	Municipal Office Building, 84 Chester Street, Chester, NH 03036.
Town of Danville	Town Office, 210 Main Street, Danville, NH 03819.
Town of Deerfield	Town Office, 8 Raymond Road, Deerfield, NH 03037.
Town of Derry	Municipal Center, 14 Manning Street, Derry, NH 03038.
Town of East Kingston	Town Office, 24 Depot Road, East Kingston, NH 03827.
Town of Hampstead	Town Hall, 11 Main Street, Hampstead, NH 03841.
Town of Kensington	Town Hall, 95 Amesbury Road, Kensington, NH 03833.
Town of Kingston	Town Office, 163 Main Street, Kingston, NH 03848.
Town of Londonderry	Town Hall, 268B Mammoth Road, Londonderry, NH 03053.
Town of Newton	Town Hall, 2 Town Hall Road, Newton, NH 03858.
Town of Northwood	Town Hall, 818 1st New Hampshire Turnpike, Northwood, NH 03261.
Town of Plaistow	Town Office, 145 Main Street, Plaistow, NH 03865.
Town of Salem	Town Office, 33 Geremonty Drive, Salem, NH 03079.
Town of Sandown	Town Office, 320 Main Street, Sandown, NH 03873.
Town of South Hampton	Town Office, 3 Hilldale Avenue, South Hampton, NH 03827.
Town of Windham	Town Administrative Offices, 4 North Lowell Road, Windham, NH 03087.
Tompkins County, New York (All Jurisdictions) Project: 19–02–0019S Preliminary Date: January 18, 2023	
City of Ithaca	City Hall, 108 East Green Street, 4th Floor, Ithaca, NY 14850.
Town of Caroline	Caroline Town Offices, 2668 Slaterville Road, Slaterville Springs, NY 14881.
Town of Danby	Danby Town Hall, 1830 Danby Road, Ithaca, NY 14850.
Town of Dryden	Town Hall, 93 East Main Street, Dryden, NY 13053.
Town of Enfield	Enfield Town Hall, 168 Enfield Main Road, Ithaca, NY 14850.
Town of Groton	Town Hall, 101 Conger Boulevard, Groton, NY 13073.
Town of Ithaca	Town Hall, 215 North Tioga Street, Ithaca, NY 14850.
Town of Lansing	Town Hall, 29 Auburn Road, Lansing, NY 14882.
Town of Newfield	Town Hall, 166 Main Street, Newfield, NY 14867.
Town of Ulysses	Ulysses Town Hall, 10 Elm Street, Trumansburg, NY 14886.

Community	Community map repository address
Village of Dryden	Dryden Town Hall, 93 East Main Street, Dryden, NY 13053.
Village of Freeville	Village of Freeville Offices, 5 Factory Street, Freeville, NY 13068.
Village of Groton	Groton Village Offices, 143 East Cortland Street, Groton, NY 13073.
Village of Lansing	Lansing Village Offices, 2405 North Triphammer Road, Ithaca, NY 14850.
Village of Trumansburg	Village of Trumansburg Offices, 56 East Main Street, Trumansburg, NY 14886.

[FR Doc. 2023–24797 Filed 11–8–23; 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–2380]

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 February 7, 2024.

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–2380, 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.'')

Nicholas A. Shufro,

Deputy Assistant Administrator for Risk Management, Federal Emergency Management Agency, Department of Homeland Security.

Community	Community map repository address
Eddy County, North Dakota and Incorporated Areas Project: 23–08–0013S Preliminary Date: June 30, 2023	
City of New Rockford	City Hall, 117 1st Street South, New Rockford, ND 58356.
Unincorporated Areas of Eddy County	Eddy County Courthouse, 524 Central Avenue, New Rockford, ND 58356.
Foster County, North Dakota and Incorporated Areas Project: 23–08–0014S Preliminary Date: June 30, 2023	
City of Grace City	Auditor's Office, 391 George Street, Grace City, ND 58445.
Unincorporated Areas of Foster County	Foster County Courthouse, 1000 5th Street N, Carrington, ND 58421.
Wells County, North Dakota and Incorporated Areas Project: 23–08–0015S Preliminary Date: June 30, 2023	
City of Fessenden	City Hall, 602 Railway Street S, Fessenden, ND 58438.
City of Hamberg	City Hall, 323 Highway 30, Hamberg, ND 58341.
City of Harvey	City Hall, 120 West 8th Street, Harvey, ND 58341.
Unincorporated Areas of Wells County	Wells County Courthouse, 700 Railway Street N, #37, Fessenden, ND 58438.
McCook County, South Dakota and Incorporated Areas Project: 18–08–0045S Preliminary Date: May 26, 2023	
City of Bridgewater	Main Street Plaza, 232 North Main Avenue, Bridgewater, SD 57319.
City of Montrose	City Hall, 100 West Main Street, Montrose, SD 57048.
City of Salem	City Hall, 400 North Main Street, Salem, SD 57058.
Town of Spencer	City Hall, 306 Main Street, Spencer, SD 57374.
Unincorporated Areas of McCook County	McCook County Auditor's Office, 130 West Essex Avenue, Salem, SD 57058.
Spink County, South Dakota and Incorporated Areas Project: 18–08–0010S Preliminary Date: April 14, 2023	
City of Ashton	City Hall, 14 Main Street, Ashton, SD 57424.
City of Conde	City Hall, 343 Broadway Street, Conde, SD 57434.
City of Doland	City Hall, 106 North 2nd Street, Doland, SD 57436.
City of Frankfort	City Hall, 404 Maple Street, Frankfort, SD 57440.
City of Redfield	City Hall, 626 Main Street, Redfield, SD 57469.
Town of Northville	Town Hall, 402 Thayer Street, Northville, SD 57465.
Town of Tulare	Community Hall, 112 Main Street, Tulare, SD 57476.
Town of Turton	Farmers State Bank, 123 East Center Street, Turton, SD 57477.
Unincorporated Areas of Spink County	Spink County Courthouse, 210 East 7th Avenue, Redfield, SD 57469.

[FR Doc. 2023–24800 Filed 11–8–23; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2011–0108]

RIN 1601–ZA11

Identification of Foreign Countries Whose Nationals Are Eligible To Participate in the H–2A and H–2B Nonimmigrant Worker Programs

AGENCY: Office of the Secretary, DHS.

ACTION: Notice.

SUMMARY: Under Department of Homeland Security (DHS) regulations, U.S. Citizenship and Immigration Services (USCIS) may generally only approve petitions for H–2A and H–2B nonimmigrant status for nationals of countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated by notice published in the **Federal Register**. Each such notice shall be effective for one year after its date of publication. This notice announces that the Secretary of Homeland Security, in consultation with the Secretary of State, is identifying 87 countries whose nationals are eligible to participate in the H–2A program and 88 countries whose nationals are eligible to participate in the H–2B program for the coming year.

DATES: The designations in this notice are effective from November 9, 2023 and shall be without effect on November 8, 2024.

FOR FURTHER INFORMATION CONTACT: Ihsan Gunduz, Office of Strategy, Policy, and Plans, Department of Homeland Security, Washington, DC 20528, (202) 282–9708.

SUPPLEMENTARY INFORMATION:

Background

Generally, USCIS may approve H–2A and H–2B petitions for nationals of only those countries that the Secretary of Homeland Security, with the concurrence of the Secretary of State, has designated as participating countries.[1] Such designation must be published as a notice in the **Federal Register** and expires after one year. In

[1] With respect to all references to ''country'' or ''countries'' in this document, it should be noted that the Taiwan Relations Act of 1979, Public Law 96–8, Section 4(b)(1), provides that ''[w]henever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan.'' 22 U.S.C. 3303(b)(1). Accordingly, all references to ''country'' or ''countries'' in the regulations governing whether nationals of a country are eligible for H–2 program participation, 8 CFR 214.2(h)(5)(i)(F)(1)(i) and 8 CFR 214.2(h)(6)(i)(E)(1), are read to include Taiwan. This is consistent with the United States' one-China policy, under which the United States has maintained unofficial relations with Taiwan since 1979.

designating countries to include on the lists, the Secretary of Homeland Security, with the concurrence of the Secretary of State, will take into account factors including, but not limited to: (1) the country's cooperation with respect to issuance of travel documents for citizens, subjects, nationals, and residents of that country who are subject to a final order of removal; (2) the number of final and unexecuted orders of removal against citizens, subjects, nationals, and residents of that country; (3) the number of orders of removal executed against citizens, subjects, nationals, and residents of that country; and (4) such other factors as may serve the U.S. interest. *See* 8 CFR 214.2(h)(5)(i)(F)(*1*)(*i*) and 8 CFR 214.2(h)(6)(i)(E)(*1*).[2] Examples of specific factors serving the U.S. interest that are taken into account when considering whether to designate or terminate the designation of a country include, but are not limited to: fraud (*e.g.,* fraud in the H–2 petition or visa application process by nationals of the country, the country's level of cooperation with the U.S. government in addressing H–2 associated visa fraud, and the country's level of information sharing to combat immigration-related fraud), nonimmigrant visa overstay [3] rates for nationals of the country (including but not limited to H–2A and H–2B nonimmigrant visa overstay rates), and non-compliance with the terms and conditions of the H–2 visa programs by nationals of the country.

As previously indicated, *see* 86 FR 2689; 86 FR 62559, in evaluating the U.S. interest, the Secretary of Homeland Security, with the concurrence of the Secretary of State, will generally ascribe a negative weight to evidence that a country had a suspected in-country visa overstay rate of 10 percent or higher with a number of expected departures of 50 individuals or higher in either the H–2A or H–2B classification according to U.S. Customs and Border Protection overstay data, and generally, with the concurrence of the Secretary of State, will terminate designation of that country from the H–2A or H–2B nonimmigrant visa program, as appropriate, unless, after consideration of other relevant factors, it is determined not to be in the U.S. interest to do so.

Similarly, DHS recognizes that countries designated under long-standing practice by U.S. Immigration and Customs Enforcement (ICE) as ''At Risk of Non-Compliance'' or ''Uncooperative'' with removals based on ICE data put the integrity of the immigration system and the American people at risk. Therefore, unless other favorable factors in the U.S. interest outweigh such designations by ICE, the Secretary of Homeland Security, with the concurrence of the Secretary of State, generally will terminate designation of such countries from the H–2A and H–2B nonimmigrant visa programs. Because there are separate lists for the H–2A and H–2B categories, it is possible that, in applying the above-described regulatory criteria for listing countries, a country may appear on one list but not on the other.

Even where the Secretary of Homeland Security has determined to terminate or decided not to designate a country, DHS, through USCIS, may allow, on a case-by-case basis, a national from a country that is not on the list to be named as a beneficiary of an H–2A or H–2B petition based on a determination that it is in the U.S. interest, in the totality of the circumstances, for that individual noncitizen to be a beneficiary of an H–2 petition. Determination of such U.S. interest will take into account factors, including but not limited to: (1) evidence from the petitioner demonstrating that a worker with the required skills is not available either from among U.S. workers or from among foreign workers from a country currently on the list described in 8 CFR 214.2(h)(5)(i)(F)(*1*)(*i*) (H–2A nonimmigrants) or 214.2(h)(6)(1)(E)(*1*) (H–2B nonimmigrants), as applicable; (2) evidence that the beneficiary has been admitted to the United States previously in H–2A or H–2B status; (3) the potential for abuse, fraud, or other harm to the integrity of the H–2A or H–2B visa program through the potential admission of a beneficiary from a country not currently on the list; and (4) such other factors as may serve the U.S. interest. *See* 8 CFR 214.2(h)(5)(i)(F)(*1*)(*ii*) and 8 CFR 214.2(h)(6)(i)(E)(*2*). An additional factor for beneficiaries of H–2B petitions, although not necessarily determinative, would be whether the H–2B petition qualifies under section 1049 of the National Defense Authorization Act (NDAA) for FY 2018, Public Law 115–91, section 1045 of the NDAA for FY 2019, Public Law 115–232, section 9502 of the NDAA for FY 2021, Public Law 116–283, or section 5901 of the NDAA for FY 2023, Public Law 117–263.

In December 2008, DHS published the first lists of eligible countries for the H–2A and H–2B Visa Programs in the **Federal Register**. These notices, ''Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H–2A Visa Program,'' and ''Identification of Foreign Countries Whose Nationals Are Eligible to Participate in the H–2B Visa Program,'' designated 28 countries whose nationals were eligible to participate in the H–2A and H–2B programs. *See* 73 FR 77043 (Dec. 18, 2008); 73 FR 77729 (Dec. 19, 2008). The notices ceased to have effect on January 17, 2009, and January 18, 2009, respectively. Since the publication of the first lists in 2008, with the concurrence of the Secretary of State, has published a series of notices on a regular basis. *See* 75 FR 2879 (Jan. 19, 2010) (adding 11 countries to both programs); 76 FR 2915 (Jan. 18, 2011) (removing one country from and adding 15 countries to both programs); 77 FR 2558 (Jan. 18, 2012) (adding five countries to both programs); 78 FR 4154 (Jan. 18, 2013) (adding one country to both programs); 79 FR 3214 (Jan.17, 2014) (adding four countries to both programs); 79 FR 74735 (Dec. 16, 2014) (adding five countries to both programs); 80 FR 72079 (Nov. 18, 2015) (removing one country from the H–2B program and adding 16 countries to both programs); 81 FR 74468 (Oct. 26, 2016) (adding one country to both programs); 83 FR 2646 (Jan. 18, 2018) (removing three countries from and adding one country to both programs); 84 FR 133 (Jan. 18, 2019) (removing two countries from and adding 2 countries to both programs, removing one country from only the H–2B program, and adding one country to only the H–2A program); 85 FR 3067 (January 17, 2020) (leaving the lists unchanged); 86 FR 2689 (Jan. 13, 2021) (removing two countries from both programs, removing one country from only the H–2A program, and adding one country to

[2] DHS has published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** in which it is proposing to eliminate the requirement to designate countries whose nationals are eligible to participate in the H–2A and H–2B programs from DHS regulations. The rule is in a proposal stage and does not impact the designation of eligible countries contained in this notice. The regulations requiring the designation of countries whose nationals are eligible to participate in the H–2 programs will remain in effect until such time as DHS publishes any final rule amending such regulations and such final rule goes into effect, if applicable. *See* 88 FR 65040.

[3] An overstay is a nonimmigrant lawfully admitted to the United States for an authorized period, but who remained in the United States beyond his or her authorized period of admission. U.S. Customs and Border Protection (CBP) identifies two types of overstays: (1) individuals for whom no departure was recorded (Suspected In-Country Overstays), and (2) individuals whose departure was recorded after their authorized period of admission expired (Out-of-Country Overstays). For purposes of this **Federal Register** Notice, DHS uses Fiscal Year 2022 CBP nonimmigrant overstay data for the H–2A and H–2B nonimmigrant visa categories and the Fiscal Year 2022 Entry/Exit Overstay Report for all other visa categories.

only the H–2B program); 86 FR 62559 (Nov. 10, 2021) (removing one country from only the H–2A program, adding one country to only the H–2B program, and separately adding five countries to both programs); and 87 FR 67930 (Nov. 10, 2022) (adding one country to both programs).

Determination of Countries With Continued Eligibility

The Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that the 86 countries previously designated to participate in the H–2A program in the November 10, 2022 notice continue to meet the regulatory standards for eligible countries and therefore should remain designated as countries whose nationals are eligible to participate in the H–2A program. Additionally, the Secretary of Homeland Security has determined, with the concurrence of the Secretary of State, that the 87 countries previously designated to participate in the H–2B program in the November 10, 2022 notice continue to meet the regulatory standards for eligible countries and therefore should remain designated as countries whose nationals are eligible to participate in the H–2B program. These determinations take into account how the regulatory factors identified above apply to each of these countries.

Consistent with the previous notices, nationals of non-designated countries may still be beneficiaries of approved H–2A and H–2B petitions upon the request of the petitioner if USCIS determines, as a matter of discretion and on a case-by-case basis, that it is in the U.S. interest for the individual to be a beneficiary of such petition. *See* 8 CFR 214.2(h)(5)(i)(F)(*1*)(*ii*) and 8 CFR 214.2(h)(6)(i)(E)(*2*). USCIS may favorably consider a beneficiary of an H–2A or H–2B petition who is not a national of a country included on the H–2A or H–2B eligibility lists as serving the national interest, depending on the totality of the circumstances, as described above. An additional factor for beneficiaries of H–2B petitions, although not necessarily determinative, would be whether the H–2B petition qualifies under section 1049 of the National Defense Authorization Act (NDAA) for FY 2018, Public Law 115–91, section 1045 of the NDAA for FY 2019, Public Law 115–232, section 9502 of the NDAA for FY 2021, Public Law 116–283, or section 5901 of the NDAA for FY 2023, Public Law 117–263. However, any ultimate determination of eligibility will be made according to all the relevant factors and evidence in each individual circumstance.

Countries Now Designated as Eligible

The Secretary of Homeland Security has also determined, with the concurrence of the Secretary of State, that Bolivia should be designated as an eligible country to participate in both the H–2A and H–2B nonimmigrant visa programs because its participation is in the U.S. interest consistent with the regulations governing these programs.

Bolivia consistently cooperates with accepting its nationals subject to a final order of removal. Furthermore, nationals of Bolivia do not present significant visa overstay concerns; their overstay rates are consistent with other countries currently listed as eligible to participate in the H–2A and H–2B programs. Bolivian nationals are generally compliant with the terms and conditions of all visa categories. For instance, DOS's recent validation study of B1/B2 visas found that under two percent of Bolivian nationals overstayed their B1/B2 visas. Due to the current economic situation in Bolivia, adding Bolivia to these programs would contribute to DOS's goals of promoting economic development and improving bilateral commercial relationships in Bolivia. Additionally, the H–2A and H–2B programs will provide an alternative, lawful, pathway to irregular migration for Bolivian nationals seeking an economic opportunity in the United States. Based on the foregoing reasons, adding Bolivia to both the H–2A and H–2B eligible countries lists serves the U.S. interest.

Designation of Countries Whose Nationals Are Eligible To Participate in the H–2A and H–2B Nonimmigrant Worker Programs

Pursuant to the authority provided to the Secretary of Homeland Security under sections 214(a)(1) and 215(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(a)(1) and 1185(a)(1)), I am designating, with the concurrence of the Secretary of State, the following countries as those whose nationals are eligible to participate in the H–2A nonimmigrant worker program:

1. Andorra
2. Argentina
3. Australia
4. Austria
5. Barbados
6. Belgium
7. Bolivia
8. Bosnia and Herzegovina
9. Brazil
10. Brunei
11. Bulgaria
12. Canada
13. Chile
14. Colombia
15. Costa Rica
16. Croatia
17. Republic of Cyprus
18. Czech Republic
19. Denmark
20. Dominican Republic
21. Ecuador
22. El Salvador
23. Estonia
24. The Kingdom of Eswatini
25. Fiji
26. Finland
27. France
28. Germany
29. Greece
30. Grenada
31. Guatemala
32. Haiti
33. Honduras
34. Hungary
35. Iceland
36. Ireland
37. Israel
38. Italy
39. Jamaica
40. Japan
41. Kiribati
42. Latvia
43. Liechtenstein
44. Lithuania
45. Luxembourg
46. Madagascar
47. Malta
48. Mauritius
49. Mexico
50. Monaco
51. Montenegro
52. Mozambique
53. Nauru
54. The Netherlands
55. New Zealand
56. Nicaragua
57. North Macedonia (formerly Macedonia)
58. Norway
59. Panama
60. Papua New Guinea
61. Paraguay
62. Peru
63. Poland
64. Portugal
65. Romania
66. Saint Lucia
67. San Marino
68. Serbia
69. Singapore
70. Slovakia
71. Slovenia
72. Solomon Islands
73. South Africa
74. South Korea
75. Spain
76. St. Vincent and the Grenadines
77. Sweden
78. Switzerland
79. Taiwan
80. Thailand
81. Timor-Leste
82. Turkey

83. Tuvalu
84. Ukraine
85. United Kingdom
86. Uruguay
87. Vanuatu

Pursuant to the authority provided to the Secretary of Homeland Security under sections 214(a)(1) and 215(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1184(a)(1) and 1185(a)(1)), I am designating, with the concurrence of the Secretary of State, the following countries as those whose nationals are eligible to participate in the H–2B nonimmigrant worker program:

1. Andorra
2. Argentina
3. Australia
4. Austria
5. Barbados
6. Belgium
7. Bolivia
8. Bosnia and Herzegovina
9. Brazil
10. Brunei
11. Bulgaria
12. Canada
13. Chile
14. Colombia
15. Costa Rica
16. Croatia
17. Republic of Cyprus
18. Czech Republic
19. Denmark
20. Dominican Republic
21. Ecuador
22. El Salvador
23. Estonia
24. The Kingdom of Eswatini
25. Fiji
26. Finland
27. France
28. Germany
29. Greece
30. Grenada
31. Guatemala
32. Haiti
33. Honduras
34. Hungary
35. Iceland
36. Ireland
37. Israel
38. Italy
39. Jamaica
40. Japan
41. Kiribati
42. Latvia
43. Liechtenstein
44. Lithuania
45. Luxembourg
46. Madagascar
47. Malta
48. Mauritius
49. Mexico
50. Monaco
51. Mongolia
52. Montenegro
53. Mozambique
54. Nauru
55. The Netherlands
56. New Zealand
57. Nicaragua
58. North Macedonia (formerly Macedonia)
59. Norway
60. Panama
61. Papua New Guinea
62. Peru
63. The Philippines
64. Poland
65. Portugal
66. Romania
67. Saint Lucia
68. San Marino
69. Serbia
70. Singapore
71. Slovakia
72. Slovenia
73. Solomon Islands
74. South Africa
75. South Korea
76. Spain
77. St. Vincent and the Grenadines
78. Sweden
79. Switzerland
80. Taiwan
81. Thailand
82. Timor-Leste
83. Turkey
84. Tuvalu
85. Ukraine
86. United Kingdom
87. Uruguay
88. Vanuatu

This notice does not affect the current status of noncitizens who at the time of publication of this notice hold valid H–2A or H–2B nonimmigrant status. Noncitizens currently holding such status, however, will be affected by this notice should they seek an extension of stay in the H–2 classification, or a change of status from one H–2 status to another, for employment on or after the effective date of this notice. Similarly, noncitizens holding nonimmigrant status other than H–2 are not affected by this notice, but will be affected by this notice if they seek a change of status to H–2 on or after the effective date of this notice.

Nothing in this notice limits the authority of the Secretary of Homeland Security or his designee or any other federal agency to invoke against any foreign country or its nationals any other remedy, penalty, or enforcement action available by law.

Alejandro N. Mayorkas,

Secretary of Homeland Security.

[FR Doc. 2023–24210 Filed 11–8–23; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0020]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Petition for Amerasian, Widow(er), or Special Immigrant

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until January 8, 2024.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0020 in the body of the letter, the agency name and Docket ID USCIS–2007–0024. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2007–0024.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2007–0024 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(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; and

(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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Petition for Amerasian, Widow(er), or Special Immigrant.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–360; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Form I–360 may be used by an Amerasian; a widow or widower; a battered or abused spouse or child of a U.S. citizen or lawful permanent resident; a battered or abused parent of a U.S. citizen son or daughter; or a special immigrant (religious worker, Panama Canal company employee, Canal Zone government employee, U.S. Government employee in the Canal Zone; physician, international organization employee or family member, juvenile court dependent; armed forces member; Afghanistan or Iraq national who supported the U.S. Armed Forces as a translator; Iraq national who worked for the or on behalf of the U.S. Government in Iraq; or Afghan national who worked for or on behalf of the U.S. Government or the International Security Assistance Force [ISAF] in Afghanistan) who intend to establish their eligibility to immigrate to the United States. The data collected on this form is reviewed by U.S. Citizenship and Immigration Services (USCIS) to determine if the petitioner may be qualified to obtain the benefit. The data collected on this form will also be used to issue an employment authorization document upon approval of the petition for battered or abused spouses, children, and parents, if requested.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Petition for Amerasian, Widower, or Special Immigration (Form I–360); *Iraqi & Afghan Petitioners* is 1,916 and the estimated hour burden per response is 3.1 hours; the estimated total number of respondents for the information collection Petition for Amerasian, Widower, or Special Immigration (Form I–360); *Religious Workers* is 2,393 and the estimated hour burden per response is 2.35 hours; the estimated total number of respondents for the information collection Petition for Amerasian, Widower, or Special Immigration (Form I–360); *All Others* is 14,362 and the estimated hour burden per response is 2.1 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 41,724 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $2,287,320.

Dated: November 3, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–24827 Filed 11–8–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0104]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Petition for U Nonimmigrant Status

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until January 8, 2024.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0104 in the body of the letter, the agency name and Docket ID USCIS–2010–0004. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2010–0004.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status

Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and enter USCIS–2010–0004 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov*.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(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; and

(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 submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Revision of a Currently Approved Collection.

(2) Title of the Form/Collection: Petition for U Nonimmigrant Status.

(3) Agency form number, if any, and the applicable component of the DHS sponsoring the collection: Form I–918; USCIS.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households; Federal Government; or State, local or Tribal Government. This petition permits victims of certain qualifying criminal activity and their immediate family members to apply for temporary nonimmigrant classification. This nonimmigrant classification provides temporary immigration benefits, potentially leading to permanent resident status, to certain victims of criminal activity who: suffered substantial mental or physical abuse as a result of having been a victim of criminal activity; have information regarding the criminal activity; and assist government officials in investigating and prosecuting such criminal activity.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The estimated total number of respondents for the information collection I–918 is 24,800 and the estimated hour burden per response is 4.92 hours. The estimated total number of respondents for the information collection I–918A is 17,400 and the estimated hour burden per response is 1.25 hour. The estimated total number of respondents for the information collection I–918B is 24,800 and the estimated hour burden per response is 1.67 hours. The estimated total number of respondents for the information collection of Biometrics is 42,200 and the estimated hour burden per response is 1.17 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: The total estimated annual hour burden associated with this collection is 234,391 hours.

(7) An estimate of the total public burden (in cost) associated with the collection: The estimated total annual cost burden associated with this collection of information is $3,364,450.

Dated: November 3, 2023.

Samantha L Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–24772 Filed 11–8–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0116]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Request for Fee Waiver

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.,* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until January 8, 2024.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0116 in the body of the letter, the agency name and Docket ID USCIS–2010–0008. Submit comments via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2010–0008.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *https://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions

or additional information by visiting the Federal eRulemaking Portal site at: *https://www.regulations.gov* and entering USCIS–2010–0008 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(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; and

(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 submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for Fee Waiver.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–912; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. USCIS uses the data collected on this form to verify that the applicant is unable to pay for the immigration benefit being requested. USCIS will consider waiving a fee for an application or petition when the applicant or petitioner clearly demonstrates that he or she is unable to pay the fee. Form I–912 standardizes the collection and analysis of statements and supporting documentation provided by the applicant with the fee waiver request. Form I–912 also streamlines and expedites USCIS's review, approval, or denial of the fee waiver request by clearly laying out the most salient data and evidence necessary for the determination of inability to pay. Officers evaluate all factors, circumstances, and evidence supplied in support of a fee waiver request when making a final determination. Each case is unique and is considered on its own merits. If the fee waiver is granted, the application will be processed. If the fee waiver is not granted, USCIS will notify the applicant and instruct them to file a new application with the appropriate fee.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form I–912 is 594,000 and the estimated hour burden per response is 1.17. The estimated total number of respondents for the information collection non-form request for fee waiver is 8,400 and the estimated hour burden per response is 1.17. The estimated total number of respondents for the information collection 8 CFR 103.7(d) Director's exception request is 128 and the estimated hour burden per response is 1.17.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 704,958 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $2,259,480.

Dated: November 3, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–24771 Filed 11–8–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0052]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Application for Naturalization

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until December 11, 2023.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at *https://www.regulations.gov* under e-Docket ID number USCIS–2008–0025. All submissions received must include the OMB Control Number 1615–0052 in the body of the letter, the agency name and Docket ID USCIS–2008–0025.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on April 20, 2023, at 88 FR 24438, allowing for a 60-day public

comment period. USCIS did receive 27 comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2008–0025 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *https://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(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; and

(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 submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Revision of a Currently Approved Collection.

(2) Title of the Form/Collection: Application for Naturalization.

(3) Agency form number, if any, and the applicable component of the DHS sponsoring the collection: N–400; USCIS.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or households. Naturalization is the process by which U.S. citizenship is granted to a foreign citizen or national after he or she fulfills the requirements established by Congress in the INA. Form N–400, Application for Naturalization, allows USCIS to fulfill its mission of fairly adjudicating naturalization applications and only naturalizing statutorily eligible individuals.

USCIS uses the data collected on this form to verify that the applicant is eligible for a reduced fee for the immigration benefit being requested.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The estimated total number of respondents for the information collection N–400 (paper) is 454,850 and the estimated hour burden per response is 8.73 hours; the estimated total number of respondents for the information collection N–400 (e-file) is 454,850 and the estimated hour burden per response is 3.92 hours; and the estimated total number of respondents for the information collection biometrics is 909,700 and the estimated hour burden per response is 1.17 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: The total estimated annual hour burden associated with this collection is 6,818,202 hours.

(7) An estimate of the total public burden (in cost) associated with the collection: The estimated total annual cost burden associated with this collection of information is $423,351,638.

Dated: November 3, 2023.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2023–24770 Filed 11–8–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_CO_FRN_MO4500174063]

Notice of Availability of the Draft Resource Management Plan Amendment and Environmental Impact Statement for Big Game Habitat Conservation for Oil and Gas Management, Colorado

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 Draft Resource Management Plan (RMP) Amendment and Draft Environmental Impact Statement (EIS) for Big Game Habitat Conservation for Oil and Gas Management and by this notice is providing information announcing the opening of the comment period on the Draft RMP Amendment/EIS.

DATES: This notice announces the opening of a 90-day comment period for the Draft RMP Amendment/EIS beginning with the date following the Environmental Protection Agency's (EPA) publication of its Notice of Availability (NOA) in the **Federal Register**. The EPA usually publishes its NOAs on Fridays.

To afford the BLM the opportunity to consider comments in the Proposed RMP Amendment/Final EIS, please ensure your comments are received prior to the close of the 90-day comment period or 15 days after the last public meeting, whichever is later.

ADDRESSES: The Draft RMP Amendment/EIS is available for review on the BLM ePlanning project website at *https://go.usa.gov/xzXxY.*

Written comments related to Big Game Habitat Conservation for Oil and Gas Management may be submitted by any of the following methods:

- *Website: https://go.usa.gov/xzXxY.*
- *Mail:* BLM Colorado State Office, Attn: Big Game Habitat Conservation amendment/EIS, Denver Federal Center Building 40, Lakewood, CO 80225.

Documents pertinent to this proposal may be examined online at *https://go.usa.gov/xzXxY* and at the BLM Colorado State Office, Denver Federal Center, Building 1A, Lakewood, Colorado.

FOR FURTHER INFORMATION CONTACT: Alan Bittner, Deputy State Director,

Resources, telephone 303–239–3768; address BLM Colorado State Office, Attn: Big Game Corridor amendment/EIS, Denver Federal Center Building 40, Lakewood, CO 80225; email *BLM_CO_corridors_planning@blm.gov.* 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. Bittner. 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: This document provides notice that the BLM Colorado State Director has prepared a Draft RMP Amendment/EIS and provides information announcing the opening of the comment period on the Draft RMP Amendment/EIS. The RMP amendment addresses alternative approaches for oil and gas management in order to maintain, conserve, and protect big game high priority habitat that would require amending the following existing plans:

- Northeast Resource Area RMP (1986)
- Royal Gorge Resource Area RMP (1996)
- San Luis Resource Area RMP (1991)
- Gunnison Resource Area RMP (1993)
- Uncompahgre Field Office RMP (2020)
- Colorado River Valley Field Office RMP (2015) and Roan Plateau Amendment (2016)
- Grand Junction Field Office RMP (2015)
- Kremmling RMP (2015)
- Little Snake RMP (2011)
- White River Field Office RMP (1997)
- Tres Rios Field Office RMP (2015)
- Canyons of the Ancients National Monument RMP (2010)
- Gunnison Gorge National Conservation Area RMP (2004)

The planning area includes all counties in Colorado and encompasses approximately 8.3 million acres of public land and approximately 27 million acres of Federal mineral estate. The decision area includes all 8.3 million acres of BLM-administered surface land (except where Federal minerals have been withdrawn from mineral leasing) plus approximately 4.7 million acres of Federal mineral split estate.

Formal public scoping for the Draft RMP Amendment/EIS started with the publication of the notice of intent (NOI) in the **Federal Register** on July 19, 2022. The NOI contained information about the purpose and need, preliminary planning criteria, proposed alternatives, expected impacts, and information about how to comment. The BLM requested that the public submit scoping comments in response to the NOI by September 2, 2022. Comments were used to inform development of the management plan. Issues analyzed in detail in the EIS include air quality, geology, fluid minerals, climate, noise and the acoustic environment, lands and realty, soil resources, big game species and habitat, special status species and other wildlife, vegetation, Native American religious concerns, cultural and paleontological resources, socioeconomics and environmental justice, recreation, travel and transportation, and visual resources.

Purpose and Need

The purpose of this RMP amendment process is to evaluate alternative approaches for oil and gas planning decisions to maintain, conserve, and protect big game corridors and other big game high priority habitat on BLM-administered lands and Federal mineral estate in Colorado. Under the authority of Section 202 of FLPMA, the BLM also seeks to evaluate consistency with plans or policies and programs of other Federal agencies, State and local governments, and Tribes, to the extent consistent with Federal laws, regulations, policies, and programs applicable to BLM-administered lands.

This RMP amendment process will consider current big game population and habitat data and evaluate planning alternatives' consistency with the policies and programs of State agencies that manage big game populations and regulate oil and gas operations in Colorado: Colorado Parks and Wildlife (CPW) and the Colorado Energy and Carbon Management Commission (ECMC). CPW manages wildlife in Colorado, and the ECMC regulates oil and gas development. Colorado Senate Bill 19–181 Oil and Gas Act gives the ECMC the authority to promulgate regulations that are protective of human health, safety, welfare, the environment, and wildlife resources. The ECMC 1200 series rules identify certain big game habitats where oil and gas operations are subject to specific ECMC requirements. CPW's implementation of the ECMC requirements for high priority habitat is intended to avoid, minimize, and mitigate impacts to big game habitats.

This RMP amendment process also complies with the terms of the settlement agreement in *State of Colorado* v. *Bureau of Land Management* (U.S. District Court for Colorado, 1:21–cv–00129).

Alternatives Including the Preferred Alternative

The BLM has analyzed four alternatives in detail, including the no action alternative. Alternative A is the No Action alternative and is based on existing approved RMPs, as amended, throughout Colorado. This alternative reflects the management decisions in the existing RMPs. The analysis considers how the BLM is currently managing big game habitat protection and oil and gas development across the state and provides a characterization of the existing environment for comparison with the action alternatives.

Alternative B is based on management alignment with the ECMC rules for oil and gas development in elk, mule deer, pronghorn, and bighorn sheep high priority habitat (Rule 1202.c, d; Rule 1203). Where lands are open to oil and gas leasing under existing RMPs, Alternative B prescribes measures consistent with the ECMC rules to conserve high priority habitat. Alternative B incorporates various oil and gas lease stipulations, including a controlled surface use density limitation of one well pad per square mile in big game high priority habitat subject to waivers, exceptions, and modifications in some circumstances.

Alternative C, in addition to incorporating lease stipulations similar to alternative B, applies a three percent surface disturbance cap on oil and gas development within big game high priority habitat on BLM surface lands. This limit does not apply to private, local government, or State lands in the decision area. This alternative provides for waivers, exceptions, and modifications to the stipulations in some circumstances.

Alternative D is similar to the other action alternatives in that it also incorporates lease stipulations that align the BLM's oil and gas management with ECMC's rules for big game high priority habitat in the decision area. Alternative D includes a three percent surface disturbance cap on oil and gas development within big game high priority habitat; however, the application of this cap is not limited to BLM surface lands as it is under Alternative C. Under this alternative, the disturbance threshold applies to big game high priority habitat on all lands in the decision area regardless of land ownership. Additionally, unlike Alternatives B and C, this alternative proposes to reduce the area open to leasing of oil and gas. Specifically, big game high priority habitat areas identified with low, moderate, or no known oil and gas development

potential would be closed to new Federal oil and gas leasing.

The BLM further considered five additional alternatives but dismissed these alternatives from detailed analysis as explained in the Draft RMP Amendment/EIS.

The State Director has identified Alternative B as the preferred alternative because it conserves big game high priority habitat while balancing other resource uses.

Mitigation

Across all action alternatives, the BLM considers potential mitigation in compliance with Council on Environmental Quality, Department of the Interior, and BLM guidance. Mitigation can help provide a conservation benefit to big game species when impacts from oil and gas development activity are not avoidable. Consistent with valid existing rights and applicable law, when oil and gas development results in habitat loss or degradation within big game high priority habitat, the BLM will require and ensure mitigation that provides a conservation benefit to the species, including accounting for any uncertainty associated with the effectiveness of such mitigation.

The action alternatives call for the BLM to consider alternative locations for oil and gas operations that either avoid big game high priority habitat altogether, or, where avoidance is not feasible, minimize adverse impacts to the maximum extent possible. The action alternatives include surface density limitations, as well as a density trigger that would require the operator to address indirect impacts through compensatory mitigation. The action alternatives call for the BLM to include avoidance, minimization, and mitigation strategies in subsequent implementation-level NEPA analyses for proposed actions that may result in big game high priority habitat loss and degradation.

Subsequent implementation-level mitigation could limit the duration and extent of development activities in big game high priority habitat through all phases of development by avoiding activities in high priority habitat, applying a surface density limitation, and mitigating impacts. Mitigation plans would address cumulative effects of oil and gas activities across a given landscape.

The BLM may also require compensatory mitigation to offset disturbance or density limitation exceedances and direct and unavoidable adverse indirect impacts that result in the functional loss of habitat from oil and gas development in big game high priority habitat. Direct impacts to big game occur from disturbance or habitat fragmentation during construction, drilling, and/or completion activities and habitat conversion to oil and gas facilities. Indirect impacts to big game occur over time from big game avoidance of disturbance and the cumulative functional habitat loss from fragmentation and modified habitat use as development density increases. Indirect impacts may be avoided or minimized through the application of alternative siting and operating requirements. The BLM, after coordination with CPW, will determine whether compensatory mitigation proposed by the operator is sufficient to protect big game high priority habitat from direct and unavoidable adverse indirect impacts.

The BLM has the discretion to require an operator to modify surface operations to change or add specific mitigation measures when supported by scientific analysis and consistent with existing rights. Potential mitigation/conservation measures not already required as stipulations would be analyzed in a site-specific NEPA document, and incorporated, as appropriate, as conditions of approval of the permit, plan of development, or other use authorization. In discussing surface use rights, 43 CFR 3101.1–2 states that the lessee has the right, ''to use so much of the leased lands as is necessary to explore for, drill for, mine, extract, remove and dispose of all the leased resource.'' However, lessees are subject to lease stipulations, nondiscretionary statutes, and as identified in 43 CFR 3101.1–2, ''such reasonable measures as may be required by the authorized officer to minimize adverse impacts to other resource values, land uses or users not addressed in the lease stipulations at the time operations are proposed.''

Schedule for the Decision-Making Process

The BLM will provide additional opportunities for public participation consistent with the NEPA and land use planning processes, including a 30-day public protest period and a 60-day Governor's consistency review on the Proposed RMP. The Proposed RMP Amendment/Final EIS is anticipated to be available for public protest starting August 2024, with an Approved RMP and Record of Decision in November 2024.

The BLM will be holding public meetings on the Draft RMP Amendment/EIS. The specific date(s) and location(s) of these meetings will be announced at least 15 days in advance through local media and the ePlanning project page (see **ADDRESSES**).

The BLM will continue to consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM Manual 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration.

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.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2)

Douglas J. Vilsack,

State Director.

[FR Doc. 2023–24552 Filed 11–8–23; 8:45 am]

BILLING CODE 4331–16–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_UT_FRN_MO4500170480]

Notice of Proposed Class II Reinstatement of Terminated Oil and Gas Leases UTU88835 and UTU88838, San Juan County, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Mineral Leasing Act of 1920, as amended, ST Oil Company, LLC, Moore Energy LLC, Shoreline Company LLC, and Leaf River Resources LLC, filed a timely petition for reinstatement of oil and gas leases UTU88835 and UTU88838 for lands in San Juan County, Utah. The petition was accompanied by all required rentals and royalties accruing from April 1, 2018, the date of termination. No leases were issued that affect these lands. The Bureau of Land Management proposes to reinstate these leases.

FOR FURTHER INFORMATION CONTACT: Angela Wadman, Branch Chief, Fluid Minerals, Utah State Office, Bureau of Land Management, 440 West 200 South, Suite 500, Salt Lake City, Utah, 84101, phone: 801–539–4052, email: *awadman@blm.gov*. 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. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The lessees have agreed to the new lease terms:

- Original term and additional conditions of the lease;
- Increased rental of $20 per acre;
- Increased royalty of 20-⅔ percent;
- $151 cost of publishing this Notice; and
- $500 cost of administrative fee.

The leases include the following described lands in San Juan County, Utah:

UTU–88835

Salt Lake Meridian, Utah

T. 30 S., R. 23 E.,
Secs. 24 and 25;
Sec. 26, lots 1 thru 4, W½NE¼, E½NW¼, and W½SE¼;
Sec. 35, lots 1 thru 4, W½NE¼, and W½SE¼.

The area described contains 2007.56 acres, according to the official plats of the surveys of the said land, on file with the BLM.

UTU–88838

Salt Lake Meridian, Utah

T. 30 S., R. 24 E.,
Sec. 30;
Sec. 31, lots 1 and 2, and S½SE¼.

The areas described aggregate 797.38 acres, according to the official plat of the survey of the said lands, on file with the BLM.

The lessees have met all the requirements for reinstatement of the leases per Section 31(d) and (e) of the Mineral Leasing Act of 1920 as Amended. The BLM is proposing to reinstate the leases 30 days following publication of this notice, with the effective date of April 1, 2018, subject to the increased rental and royalty rates cited above.

Authority: 43 CFR 3108.2–3.

Gregory Sheehan,

BLM Utah State Director.

[FR Doc. 2023–24719 Filed 11–8–23; 8:45 am]

BILLING CODE 4331–25–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_CO_FRN_MO4500174493]

Notice of Availability of the Draft Resource Management Plan Amendment and Environmental Impact Statement for the Gunnison Sage-Grouse (Centrocercus minimus), Colorado and Utah

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, the Bureau of Land Management (BLM) has prepared a draft Resource Management Plan (RMP) amendment and draft Environmental Impact Statement (EIS) for the Gunnison Sage-Grouse (*Centrocercus minimus*) and by this notice is providing information announcing the opening of the comment period on the draft RMP amendment/EIS and is announcing the comment period on the BLM's proposed areas of critical environmental concern (ACECs).

DATES: This notice announces the opening of a 90-day comment period for the draft RMP amendment/EIS beginning with the date following the Environmental Protection Agency's (EPA) publication of its Notice of Availability (NOA) in the **Federal Register**. The EPA usually publishes its NOAs on Fridays.

To afford the BLM the opportunity to consider comments in the proposed RMP amendment/final EIS, please ensure your comments are received prior to the close of the 90-day comment period or 15 days after the last public meeting, whichever is later.

In addition, this notice also announces the opening of a 60-day comment period for ACECs. The BLM must receive your ACEC-related comments by January 8, 2024.

ADDRESSES: The draft RMP amendment/EIS is available for review on the BLM ePlanning project website at *https://eplanning.blm.gov/eplanning-ui/project/2019031/510.*

Written comments related to the Gunnison Sage-Grouse RMP amendment may be submitted by any of the following methods:

- *Website:* electronically via the BLM ePlanning website at *https://eplanning.blm.gov/eplanning-ui/project/2019031/510.*
- *Mail:* BLM Southwest District Office, ATTN: GUSG RMPA, 2465 South Townsend Ave., Montrose, CO 81401.

Documents pertinent to this proposal may be examined online at *https://eplanning.blm.gov/eplanning-ui/project/2019031/510* and at the Grand Junction, Uncompahgre, Tres Rios, Gunnison, San Luis Valley, Moab, and Monticello Field Offices.

FOR FURTHER INFORMATION CONTACT: Gina Phillips, Project Manager, telephone 970–240–5381; BLM Southwest District Office, 2465 South Townsend Ave., Montrose, CO 81401; email *BLM_CO_GUSG_RMPA@blm.gov.* 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 Ms. Phillips. 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: This document provides notice that the BLM Colorado and Utah State Directors have prepared a draft RMP amendment/EIS, provides information announcing the opening of the comment period on the draft RMP amendment/EIS, and is announcing the comment period on the BLM's proposed ACECs. The RMP amendment is being considered to allow the BLM to evaluate protections for Gunnison sage-grouse consistent with the latest measures in the recently completed U.S. Fish and Wildlife Service (USFWS) recovery plan, which would require amending the following existing plans:

Colorado

- Canyons of the Ancients National Monument RMP (2010)
- Dominguez-Escalante National Conservation Area RMP (2017)
- Grand Junction Field Office RMP (2015)
- Gunnison Gorge National Conservation Area RMP (2004)
- Gunnison Resource Area RMP (1993)
- McInnis Canyons National Conservation Area RMP (2004)
- San Luis Resource Area RMP (1991)
- Tres Rios Field Office RMP (2015)
- Uncompahgre Field Office RMP (2020)

Utah

- Moab Field Office RMP (2008)
- Monticello Field Office RMP (2008)

The planning area is located in portions of 19 Colorado counties: Alamosa, Archuleta, Conejos, Costilla,

Delta, Dolores, Garfield, Gunnison, Hinsdale, La Plata, Mesa, Mineral, Montezuma, Montrose, Ouray, Rio Grande, Saguache, San Juan, and San Miguel; and two Utah counties: Grand and San Juan; and encompasses approximately 16 million acres of public land.

Levels of protection for Gunnison sage-grouse habitat are highly variable across the BLM administrative units. Several of the existing RMPs, especially the recently completed (as recent as 2020) land use planning revisions, provide management direction that meet the existing purpose and need of this RMP amendment, while others that were completed in the early 1990s, for example, do not provide adequate protection for Gunnison sage-grouse consistent with the latest measures in the recently completed USFWS recovery plan. The planning area includes lands administered by the BLM; U.S. Department of Agriculture, Forest Service; U.S. Department of the Interior (DOI), National Park Service; U.S. DOI, Bureau of Reclamation; State of Colorado; State of Utah; and private lands.

The BLM published a notice of intent in the **Federal Register** to initiate the public scoping period for this planning effort on July 6, 2022 (87 FR 40262). The BLM hosted four public scoping meetings aimed at soliciting nominations for ACECs, identifying the scope of issues to be addressed in the RMP amendment, and gathering input to assist in formulating a reasonable range of alternatives. The resource concerns identified during the scoping process included Gunnison sage-grouse habitat, vegetation, livestock grazing management, mineral development, renewable energy development, wildland fire ecology and management, ACECs, recreation, lands and realty, air resources, soil resources, lands with wilderness characteristics, and social and economic conditions.

Purpose and Need

The BLM's purpose consists of the following:

- Promote the recovery of the threatened Gunnison sage-grouse and maintain and enhance BLM-administered occupied/unoccupied habitat upon which the species depends, while continuing to manage the land wherever possible for multiple use and sustained yield.
- Ensure management actions on BLM-administered lands support conservation goals for Gunnison sage-grouse and their habitat.
- Ensure that BLM management aligns with current science and data; relevant Federal, State, and local decisions supporting recovery; the DOI Climate Action Plan; and the USFWS Final Recovery Plan for Gunnison Sage-Grouse and Recovery Implementation Strategy for Gunnison Sage-Grouse (*Centrocercus minimus*).
- Provide consistent guidance for addressing threats to Gunnison sage-grouse populations and their habitat.

This BLM action is necessary to accomplish the following:

- Address the rangewide downward population trend of Gunnison sage-grouse since 2014 and address issues related to land management that may affect occupied/unoccupied habitat.
- Respond to the Endangered Species Act (ESA) Section 7(a)(1) requirement that the BLM use its authority to further the purposes of the ESA by implementing management actions for the conservation of federally listed species and the ecosystems upon which they depend.
- Respond to changing ecological and climate conditions affecting BLM-administered lands, including drought, habitat loss and fragmentation, reduced riparian areas, and more frequent wildland fires.

Alternatives Including the Preferred Alternative

The BLM has analyzed five alternatives in detail, including the no action alternative. This land use planning effort addresses management actions impacting, or with the potential to impact, Gunnison sage-grouse and occupied and unoccupied habitat in the decision area. The decision area consists of approximately 2,156,150 acres of BLM-managed surface lands (1,926,100 acres in Colorado and 230,050 acres in Utah) and 2,852,390 acres of Federal subsurface mineral estate (2,563,220 acres in Colorado and 289,170 acres in Utah). Alternative A (No Action Alternative—Current Management) would continue current BLM management direction in the 11 administrative units in the planning area.

Alternative B would prioritize removing identified threats within occupied and unoccupied habitat and reduce impacts within the decision area, which includes the four-mile buffer around habitat, and potential linkage-connectivity areas, to the maximum extent allowable. Alternative B contains two sub-alternatives for livestock grazing management actions in response to recommendations made in public scoping comments. Alternative B would designate all nominated ACECs that meet relevance and importance criteria.

Alternative C would minimize, mitigate, or compensate for impacts from resource uses and activities in occupied and unoccupied habitat. No new ACECs would be designated under Alternative C.

Alternative D would allocate resource uses and conserve resource values while sustaining and enhancing ecological integrity across the decision area, and designate a specific subset of nominated ACECs. Conservation measures focus on occupied and unoccupied habitat that includes a 1-mile buffer around habitat and could extend to linkage-connectivity areas.

Alternative E considers adopting applicable management direction from the interagency Candidate Conservation Agreement for the Gunnison sage-grouse, Gunnison Basin Population. The BLM considered three additional alternatives but dismissed them from detailed analysis as explained in the draft RMP amendment/EIS.

The State Directors have identified Alternative D as the preferred alternative. Alternative D was found to best meet the State Directors' planning guidance and was, therefore, selected as the preferred alternative because it: addresses conservation actions within occupied and unoccupied habitat areas and in linkage-connectivity areas; provides for allocating resource uses and conserving resources; and designates a specific subset of ACECs.

Mitigation

The BLM analyzed compensatory mitigation under Alternatives B, C, and D. Under Alternative B the BLM would avoid, minimize, and compensate for impacts to Gunnison sage-grouse and their habitat in occupied and unoccupied habitat management areas and incorporate a minimum of a 5 to 1 ratio where 1 acre of disturbance results in 5 acres of mitigation.

ACECs

Consistent with land use planning regulations at 43 CFR 1610.7–2(b), the BLM is announcing the opening of a 60-day comment period on the ACECs proposed for designation in the preferred alternative. Comments may be submitted using any of the methods listed in the **ADDRESSES** section earlier.

The proposed ACECs included in the preferred alternative, all located in Colorado, are:

- Dry Creek Basin ACEC (10,920 acres) for protection and enhancement of Gunnison sage-grouse habitat. Proposed management: manage as wind and solar energy exclusion area, right-of-way (ROW) exclusion; prohibit surface disturbing activities during

lekking, nesting, or early brood-rearing seasons (March 1 to July 15) unless needed for human health and safety; no new recreation facility construction allowed (March 1 to July 15), unless needed for human health and safety; close to non-energy solid mineral leasing; prohibit new trail development; and apply a no surface occupancy stipulation for fluid minerals leasing.

• Chance Gulch ACEC (13,150 acres) for protection and enhancement of Gunnison sage-grouse habitat. Proposed management: manage as wind and solar energy exclusion area, manage one mile buffer around active and inactive leks as ROW exclusion areas; in areas outside of the exclusion area, ROWs for pipelines, transmission/utility lines, communication sites, or other comparable infrastructure may only be authorized under the following criteria: infrastructure upgrade and/or reconstruction occurs or is co-located with the existing ROW, new utility lines are co-located on existing overhead lines to the maximum extent feasible, pipelines, communication sites, or other infrastructure are co-located within the disturbed footprint or ROW of existing structures, no new construction of roads/routes would be permitted, excluding pending applications which may be granted after appropriate evaluation at the authorized officer's discretion; maintain current, designated route system limiting both motorized and mechanized travel; limit over-snow vehicle travel to designated routes; close the area to all human use during lekking season (March 15 to May 15) with exceptions for administrative access and emergency maintenance; close to motorized (including e-bikes) travel during lekking and nesting season (March 15 to June 30) to prevent disturbance to breeding sage-grouse with exceptions for administrative access and emergency maintenance; prohibit surface disturbing activities during lekking, nesting, or early brood-rearing seasons (March 1 to July 15) unless needed for human health and safety; no new recreation facility construction allowed during lekking, nesting, or early brood-rearing seasons (March 1 to July 15), unless needed for human health and safety; close to non-energy solid mineral leasing; prohibit new trail development and close to fluid minerals exploration, leasing and/or development.

• Sapinero Mesa ACEC (17,240 acres) for protection and enhancement of Gunnison sage-grouse habitat. Proposed management: manage as wind and solar energy exclusion area; manage one mile buffer around active and inactive leks as ROW exclusion areas; in areas outside of the exclusion area, ROWs for pipelines, transmission/utility lines, communication sites, or other comparable infrastructure may only be authorized under the following criteria: infrastructure upgrade and/or reconstruction occurs or is co-located with the existing ROW, new utility lines are co-located on existing overhead lines to the maximum extent feasible, pipelines, communication sites, or other infrastructure are co-located within the disturbed footprint or ROW of existing structures, construction of roads/routes would be permitted, excluding pending applications which may be granted after appropriate evaluation at the authorized officer's discretion; maintain current, designated route system limiting motorized and mechanized travel; limit over-snow vehicle travel to designated routes; close the area west of County Road 26 to motorized and mechanized travel during lekking, nesting, and brood-rearing season (March 15 to July 15) to prevent disturbance to breeding, nesting, and brood-rearing sage-grouse, with exceptions for administrative access and emergency maintenance; area closed to all human use during lekking season (March 15 to May 15) with exceptions for administrative access and emergency maintenance; close to motorized (including e-bikes) travel during lekking and nesting season (March 15 to June 30) to prevent disturbance to breeding sage-grouse with exceptions for administrative access and emergency maintenance; prohibit surface disturbing activities during lekking, nesting, or early brood-rearing seasons (March 1 to July 15) unless needed for human health and safety; no new recreation facility construction allowed during lekking, nesting, or early brood-rearing seasons (March 1 to July 15), unless needed for human health and safety; close to non-energy solid mineral leasing; and close to fluid minerals leasing.

• Sugar Creek ACEC (17,210 acres) for protection and enhancement of Gunnison sage-grouse habitat. Proposed management: manage as wind and solar energy exclusion area, manage one mile buffer around active and inactive leks as ROW exclusion areas; in areas outside of the exclusion area, ROWs for pipelines, transmission/utility lines, communication sites, or other comparable infrastructure may only be authorized under the following criteria: infrastructure upgrade and/or reconstruction occurs or is co-located with the existing ROW, new utility lines are co-located on existing overhead lines to the maximum extent feasible, pipelines, communication sites, or other infrastructure are co-located within the disturbed footprint or ROW of existing structures, no new construction of roads/routes would be permitted, excluding pending applications which may be granted after appropriate evaluation at the authorized officer's discretion; maintain current, designated route system limiting motorized and mechanized travel; limit over-snow vehicle travel to designated routes; area closed to all human use during lekking season (March 15 to May 15) with exceptions for administrative access and emergency maintenance; close to dispersed camping during lekking and nesting season (March 15 to June 30); allow vegetation treatments and wildlife habitat improvements for the benefit of the relevant and important values; prohibit new trail development; close to non-energy solid mineral leasing; and close to fluid minerals leasing.

Existing ACECs in Colorado and Utah would continue to be designated under all alternatives and current management would remain except where updated. Following are the existing, currently designated ACECs, all in Colorado, that would receive updated management. Updates in management are specified below to protect the relevant and important values:

• Gunnison Sage-Grouse ACEC/Important Bird Area (existing, 22,190 acres) for management and protection of the Gunnison sage-grouse and its habitat. Proposed management would remain the same as existing with the following updates: for special status species, surface-disturbing activities will be restricted in special status species occupied locations and their potential habitat for their protection (March 1 to July 15); at minimum, prohibit surface-disturbing activities in occupied habitat management areas during lekking, nesting, or early brood-rearing (March 1 to July 15)—specific time and distance determinations will be based on site-specific conditions and may be modified, in coordination with the appropriate State wildlife agency and USFWS, due to documentation of local variations (*e.g.,* higher/lower elevations), annual climatic fluctuations (*e.g.,* early/late spring and long and/or heavy winter), if located within an area of non-habitat (*e.g.,* forest, sandflat), documented use or occurrence of Gunnison sage-grouse withing the past year (*e.g.,* pellet transects, observations); livestock grazing management, road and trails management, recreation activity management, and vegetation management will be conducted to maintain and restore Gunnison sage-grouse habitat in this area subject to seasonal timing restriction for surface

disturbance activity (March 1 to July 15); manage as wind and solar energy exclusion area; no new recreation facility construction allowed (March 1 to July 15), unless needed for human health and safety; close to non-energy solid mineral leasing and no surface occupancy stipulation without waivers, exceptions, and modifications for fluid mineral leasing.

- West Antelope Creek ACEC (existing, 28,280 acres) to improve the capabilities of the resources in the unit to support wintering elk, deer, and bighorn sheep. Proposed management would remain the same as existing with the following updates: manage as wind and solar energy exclusion area, manage one mile buffer around active and inactive leks as ROW exclusion areas; seasonal habitat restrictions apply to prohibit surface disturbance in Gunnison sage-grouse occupied habitat management areas (March 1 to July 15), at minimum; prohibit surface-disturbing activities during lekking, nesting, or early brood-rearing (March 1 to July 15); no new recreation facility construction allowed (March 1 to July 15), unless needed for human health and safety, subject to valid existing rights; close to fluid mineral exploration, leasing, and/or development; close to non-energy solid mineral leasing; close designated routes to motorized travel from March 15 to May 15 and limit over-snow vehicle travel to designated routes; maintain current, designated route system limiting motorized and mechanized travel.
- South Beaver Creek ACEC (existing, 4,570 acres) for protection and enhancement of existing populations and habitat for skiff milkvetch. Proposed management would remain the same as existing with the following updates: remove the restriction for chemical spraying; manage as wind and solar energy exclusion area; manage one mile buffer around active and inactive leks as ROW exclusion areas; seasonal habitat restrictions apply to prohibit surface disturbance in Gunnison sage-grouse occupied habitat management areas from March 1 to July 15, at minimum; prohibit surface-disturbing activities during lekking, nesting, or early brood-rearing from March 1 to July 15; no new recreation facility construction allowed from March 1 to July 15, unless needed for human health and safety, subject to valid existing rights; close to fluid mineral exploration, leasing, and/or development; close to non-energy solid mineral leasing; close designated routes to motorized travel (March 15 to May 15) and limit over-snow vehicle travel to designated routes; maintain current, designated route system limiting motorized and mechanized travel.

The preferred alternative would not propose the following potential ACECs for designation: All BLM-administered surface lands within Gunnison sage-grouse Occupied Habitat Management Area and Unoccupied Habitat Management Area ACEC (Colorado and Utah); Gunnison Satellite Populations Habitat ACEC (Colorado and Utah); Northdale ACEC (Colorado); Kezar Basin ACEC (Colorado); North Parlin ACEC (Colorado); South Parlin ACEC (Colorado); Ohio Creek ACEC (Colorado); and Waunita ACEC (Colorado).

Schedule for the Decision-Making Process

The BLM will provide additional opportunities for public participation consistent with the NEPA and land use planning processes, including a 30-day public protest period and a 60-day Governor's consistency review on the proposed RMP. The proposed RMP amendment/final EIS is anticipated to be available for public protest in the summer of 2024 with an approved RMP amendment and record of decision in the fall of 2024.

The BLM will hold three public meetings in the following locations: one meeting virtually hosted and two in-person meetings at Gunnison, CO, and Dove Creek, CO. The specific date(s) and location(s) of these meetings will be announced at least 15 days in advance through the ePlanning page (see **ADDRESSES**) and applicable local newspapers.

The BLM will continue to consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM MS 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration.

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.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10, 43 CFR 1610.2)

Douglas J. Vilsack,

State Director.

[FR Doc. 2023–24394 Filed 11–8–23; 8:45 am]

BILLING CODE 4331–16–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_AZ_FRN_MO4500175810]

Notice of Intent To Prepare an Environmental Impact Statement and Notice of Segregation for the Proposed Ranegras Plains Energy Center Project, La Paz County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent and segregation.

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 (FLPMA), the Bureau of Land Management (BLM) Yuma Field Office, Yuma, Arizona, intends to prepare an Environmental Impact Statement (EIS) to consider the effects of the Ranegras Plains Energy Center Project (Project) and by this notice is announcing the beginning of the scoping process to solicit public comments and identify issues. The BLM also announces the segregation of 4,763 acres of public lands from appropriation under the public land laws, including the Mining Law, but not the mineral leasing or materials acts, for a period of 2 years from the date of publication of this notice, subject to valid existing rights. This segregation will facilitate the orderly administration of the public lands while the BLM considers potential solar and battery energy storage development on the described parcels.

DATES: This notice initiates the public scoping process for the EIS. The BLM requests that the public submit comments concerning the scope of the analysis, potential alternatives, and identification of relevant information and studies by December 11, 2023. To afford the BLM the opportunity to consider issues raised by commenters in the Draft EIS, please ensure your comments are received prior to the close of the 30-day scoping period or 15 days after the last public meeting, whichever is later. A virtual public scoping meeting will be held 2 to 3 weeks after publication of this notice; the meeting date will be announced on the Project ePlanning website at least 15 days prior to the meeting. The segregation for the

public lands identified in this notice takes effect on November 9, 2023.

ADDRESSES: You may submit comments on issues related to the Proposed Ranegras Plains Energy Center Project by any of the following methods:

- *Website: https://eplanning.blm.gov/eplanning-ui/project/2020050/510.*
- *Email: BLM_AZ_CRD_Solar@blm.gov.*
- *Mail:* BLM Yuma Field Office, Attention: Ranegras Plains Energy Center Project, 7341 E 30th Street, Yuma, AZ 85365.

Documents pertinent to this proposal may be examined online at the Project's ePlanning website: *https://eplanning.blm.gov/eplanning-ui/project/2020050/510* and at the Yuma Field Office.

FOR FURTHER INFORMATION CONTACT: Derek Eysenbach, Project Manager, at *deysenbach@blm.gov,* the mailing address above, or by phone at (602) 417–9505. Contact Mr. Eysenbach to have your name added to our mailing list. 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. Eysenbach. 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 proposed Project location is approximately 30 miles east of Quartzsite, Arizona, along the south side of Interstate 10 near the Vicksburg Road exit. The Project would have a generating capacity of up to 700 megawatts alternating current and consist of solar photovoltaic modules, a battery energy storage system, electrical collection lines, a switchyard, operations and maintenance facilities, access roads, and an 11-mile-long, 500-kilovolt generation-tie transmission line (gen-tie line) to connect to the Delaney Colorado River Transmission Ten West Link Series Compensation Station.

Purpose and Need for the Proposed Action

The purpose and need for the action is to respond to Ranegras Plains Energy Center, LLC's application for a right-of-way (ROW) to construct, operate, maintain, and decommission a solar photovoltaic and battery energy storage project and associated facilities on public land administered by the BLM, consistent with Title V of FLPMA, regulations at 43 Code of Federal Regulations (CFR) 2800, and other applicable laws and regulations. In making its decision to issue a ROW grant, the BLM must first consider conformance with existing resource management plans (43 CFR 1610.5–3).

Preliminary Proposed Action and Alternatives

The BLM has identified two preliminary alternatives: the No Action Alternative and the proposed action. The proposed action would authorize a ROW for development of a solar photovoltaic facility, battery energy storage system, and gen-tie line on up to 4,763 acres of BLM-administered public land in La Paz County, Arizona. The entire project, including the proposed solar array and gen-tie line, also includes approximately 1,100 acres of Arizona State Trust lands and 1 acre of private lands. The No Action Alternative would deny the ROW application and the Project. Through comments received in the public scoping period, the BLM may develop action alternatives that would reduce impacts to preliminary resource concerns, including wildlife connectivity, off-highway vehicle recreation and access, and grazing/rangeland uses. The BLM welcomes comments on all preliminary alternatives as well as suggestions for additional alternatives.

Summary of Expected Impacts

Anticipated impacts from the proposed Project include up to 4,763 acres of ground disturbance for the solar facility, a battery energy storage system, transmission facilities, operations and maintenance facilities, access roads, and temporary work areas. Potential impacts may include a reduction in authorized grazing; vegetation removal; recreation, access, and land use changes; wildlife and migratory bird impacts including habitat loss and potential direct mortalities during construction and operations; visual impacts including glint and glare and an increase in nighttime brightness; potential impacts to cultural resources and Native American concerns; and socioeconomic impacts. Known resources to be addressed in the analysis include, but are not limited to, air quality; visual resources; environmental justice; social and economic values; mining and minerals; land uses; Native American religious concerns; recreation; grazing/rangelands; cultural resources; wildlife; migratory birds; threatened, endangered, and sensitive species; soils; water resources; invasive species; and paleontology. Impact analysis will also consider the cumulative impacts to natural and cultural resources from reasonably foreseeable future projects in the area.

Anticipated Permits and Authorizations

In addition to the requested ROW grant, other Federal, State, and local authorizations would be required for the Project. These may include authorizations determined through consultation under the Endangered Species Act (16 United States Code (U.S.C.) 1536 *et seq.*), the Clean Water Act (33 U.S.C. 1251 *et seq.*), and other laws and regulations determined to be applicable to the Project.

Schedule for the Decision-Making Process

The BLM will provide additional opportunities for public participation consistent with NEPA, including a 45-day comment period on the Draft EIS. The Draft EIS is anticipated to be available for public review in fall 2024, with a record of decision expected in summer 2025.

Public Scoping Process

This notice of intent initiates the scoping period. The BLM will hold one virtual public scoping meeting (see the **DATES** and **ADDRESSES** sections above). The meeting date, time, and information on how to attend will be announced at least 15 days in advance on the Project ePlanning website at *https://eplanning.blm.gov/eplanning-ui/project/2020050/510* and via news release. Project information and documents will also be posted on that website. Persons needing assistance (assistive technology, translators, or other assistance) should contact Mr. Eysenbach, Project Manager (see contact information above).

Segregation

Regulations at 43 CFR 2804.25(f) allow the BLM to segregate public lands included in an application for a ROW for solar energy development from the operation of the public land laws, including the Mining Law, by publication of a **Federal Register** notice. The BLM uses this authority to preserve its ability to approve, approve with modifications, or deny a proposed ROW, and to facilitate the orderly administration of the public lands. This segregation is subject to valid existing rights, including existing mining claims located before the date of this segregation notice. Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature that would not impact lands identified in this notice may be allowed with the approval of a BLM authorized officer during the segregation period. As

provided in the regulations, the segregation of lands in this notice will not exceed 2 years from the date of publication unless extended for up to an additional 2 years through publication of a new notice in the **Federal Register**. The segregation period will terminate and the land will automatically reopen to appropriation under the public land laws, including the Mining Law, at the earliest of the following dates: upon issuance of a decision by the authorized officer granting, granting with modifications, or denying the application for a ROW; without further administrative action at the end of the segregation provided for in the **Federal Register** notice initiating the segregation; or upon publication of a **Federal Register** notice terminating the segregation.

Legal Description for Parcel: The subject lands for the proposed solar facility are legally described as follows:

Solar Array

Gila and Salt River Meridian, Arizona

T. 3 N., R. 14 W.,
Secs. 17 and 18;
Sec. 19, lots 1 and 2, NE¼, E½NW¼, and N½SE¼;
Sec. 20, N½, N½SW¼, SE¼SW¼, and SE¼;
Secs. 21 and 22;
Sec. 23, SW¼NW¼, W½SW¼, and SE¼SW¼;
Sec. 25, SW¼SW¼;
Sec. 26, W½NE¼, NW¼, and S½;
Sec. 27, N½ and N½SE¼;
Sec. 28, N½NE¼, SE¼NE¼, and N½NW¼;
Sec. 35, NE¼NE¼.
T. 3 N., R. 15 W.,
Sec. 12, N½NE¼, SE¼;
Sec. 13, E½;
Sec. 24, N½NE¼.

The area described contains 4,674 acres, more or less, derived from GIS data received from the BLM Arizona State Office, on September 11, 2023.

Substation

Gila and Salt River Meridian, Arizona

T. 3 N., R. 15 W.,
Sec. 12, NE¼, those portions northerly of the northern alternative Gen-Tie route.

The area described contains 89 acres, more or less, derived from GIS data received from the BLM Arizona State Office, on September 11, 2023.

Lead and Cooperating Agencies

These Federal agencies have agreed to participate as Cooperating Agencies under a Memorandum of Understanding to Improve Public Land Renewable Energy Project Permit Coordination: the U.S. Fish and Wildlife Service, Bureau of Reclamation, Department of Defense, Department of Energy, and Environmental Protection Agency. Other Federal agencies, Tribal Nations, and State and local agencies wishing to be considered as a Cooperating Agency on this effort, either on the basis of their jurisdiction by law or special expertise, are invited to express their interest to Mr. Eysenbach, Project Manager (see **FOR FURTHER INFORMATION CONTACT**).

Responsible Official

The BLM Arizona State Director is the deciding official for this notice of segregation. The authorized officer and decision maker for the Project is the BLM Yuma Field Office Manager.

Nature of Decision To Be Made

The BLM will decide whether to approve, approve with modification(s), or deny issuance of a ROW grant to the applicant for the proposed Project.

Additional Information

The BLM will identify, analyze, and consider mitigation to address the reasonably foreseeable impacts to resources from the proposed action and all analyzed reasonable alternatives and, in accordance with 40 CFR 1502.14(e), include appropriate mitigation measures not already included in the proposed action or alternatives. Mitigation may include avoidance, minimization, rectification, reduction or elimination over time, and compensation; and may be considered at multiple scales, including the landscape scale.

The BLM will utilize and coordinate the NEPA process for this effort to help support compliance with applicable procedural requirements under the Endangered Species Act and section 106 of the National Historic Preservation Act (54 U.S.C. 306108) as provided in 36 CFR 800.2(d)(3), including public involvement requirements of Section 106. Information about historic and cultural resources and threatened and endangered species within the area potentially affected will assist the BLM in identifying and evaluating impacts to such resources.

The BLM will consult with Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM Manual Sections 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Federal, State, and local agencies, along with Tribal Nations and stakeholders that may be interested in or affected by the proposed Project that the BLM is evaluating, are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate in the development of the environmental analysis as a Cooperating Agency.

Before including your address, telephone 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.

(Authority: 40 CFR 1501.9)

Gera Ashton,

Acting State Director.

[FR Doc. 2023–24744 Filed 11–8–23; 8:45 am]

BILLING CODE 4331–12–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_UT_FRN_MO4500172964]

Notice of Availability of the Draft Environmental Impact Statement for the Cross-Tie 500-kV Transmission Project in Beaver, Juab, and Millard Counties, Utah, and Lincoln, Nye, and White Pine Counties, Nevada

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 (FLPMA), the Bureau of Land Management (BLM) announces the availability of the Draft Environmental Impact Statement (EIS) for the Cross-Tie 500-kilovolt (kV) Transmission Project (Cross-Tie Project or Project).

DATES: To afford the BLM the opportunity to consider comments in the Final EIS, please ensure that the BLM receives your comments within 45 days following the date the Environmental Protection Agency (EPA) publishes its Notice of Availability (NOA) of the Draft EIS in the **Federal Register**. The EPA usually publishes its NOAs on Fridays.

ADDRESSES: The Draft EIS is available for review on the BLM's ePlanning Project website at *https://bit.ly/ePlanningCrossTie.*

Written comments related to the Cross-Tie Project may be submitted by any of the following methods:

- *Email: blm_ut_fm_cross-tie_project@blm.gov.*

• *Mail:* BLM Fillmore Field Office, ATTN: Cross-Tie Project, Bureau of Land Management, Fillmore Field Office, 95 East 500 North, Fillmore, Utah 84631.

Verbal comments related to the Cross-Tie Project may be submitted via telephone hotline at 1–888–674–0962. Documents pertinent to this proposal may be examined online at the ePlanning website noted above and at the following office locations:

• BLM Bristlecone Field Office and Ely District Office, 702 North Industrial Way, Ely, Nevada 89301;

• BLM Caliente Field Office, 1400 Front Street, Caliente, Nevada 89008;

• BLM Cedar City Field Office and Color Country District Office, 176 East D.L. Sargent Drive, Cedar City, Utah 84721;

• BLM Fillmore Field Office, 95 East 500 North, Fillmore, Utah 84631;

• BLM West Desert District Office, 491 North John Glenn Road, Salt Lake City, Utah 84116;

• Forest Service Humboldt-Toiyabe National Forest Ely Ranger District, 825 Avenue E, Ely, Nevada 89301; and

• Forest Service Humboldt-Toiyabe National Forest Supervisor's Office, 1200 Franklin Way, Sparks, Nevada 89431.

FOR FURTHER INFORMATION CONTACT: Clara Stevens, Project Manager, address 95 East 500 North, Fillmore, Utah 84631; email *blm_ut_fm_cross-tie_project@blm.gov;* telephone 435–743–3119. 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 Ms. Stevens. 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 applicant, TransCanyon, LLC (TransCanyon), submitted an Application for Transportation and Utility Systems and Facilities on Federal Lands (Standard Form 299) and a draft Plan of Development to the BLM and U.S. Department of Agriculture (USDA) Forest Service (Forest Service) for a permanent facility right-of-way (ROW) and a special use permit (SUP) for the construction, operation and maintenance (O&M), and decommissioning of the Cross-Tie Project.

The BLM Fillmore Field Office, in coordination with cooperating agencies, prepared a Draft EIS to analyze potential impacts from the Proposed Action and alternatives. New permanent and temporary land use authorizations would be required to construct, operate, and maintain, and decommission Project components. In Utah, the Proposed Action would cross approximately 98 miles of BLM administered land, 14 miles of state land, and 26 miles of private land for a total of 138 miles. In Nevada, the Proposed Action would cross 63 miles of BLM administered land, eight miles of Forest Service administered land, four miles of private land, and one mile of state land for a total of 76 miles. TransCanyon would obtain these land use authorizations through a ROW grant from the BLM, a SUP from the Forest Service, and easements or fee purchases for non-federal lands.

Purpose and Need for the Action

The purpose and need of the BLM federal action is to respond to the ROW application submitted by TransCanyon for the construction, O&M, and decommissioning of the proposed 500-kV transmission line on BLM-administered land between the Clover Substation in central Utah and the Robinson Summit Substation in east-central Nevada, in compliance with Title V of FLPMA (43 U.S.C. 1761–1771), the BLM's ROW regulations at 43 CFR part 2800, and other applicable federal laws and policies to grant ROWs over public land.

The purpose and need of the Forest Service federal action is to respond to an application for a SUP submitted by TransCanyon for the construction, O&M, and decommissioning of the proposed 500-kV transmission line on National Forest System land in east-central Nevada in compliance with FLPMA and the National Forest Management Act (16 U.S.C. 1601–1614), as well as the Humboldt National Forest Land and Resource Management Plan, as amended, which provides forest-wide standards and guidelines for management of National Forest System land crossed by the Project. The SUP application and authorization process objectives are to (1) authorize use and occupy National Forest System land that is in the public interest while avoiding and minimizing adverse effects and (2) ensure conformance with existing land and resource management plans.

For both agencies, FLPMA also provides the BLM and the Forest Service with discretionary authority to authorize use (*i.e.,* via a ROW and a SUP, respectively) of land they administer, taking into consideration impacts on natural and cultural resources. In doing so, the BLM and Forest Service both must endeavor ''to minimize damage to scenic and esthetic values and fish and wildlife habitat and otherwise protect the environment'' through avoidance or mitigation (FLPMA Title V).

Alternatives

The BLM has analyzed six alternatives in detail, including the Proposed Action, four action alternatives, and the No Action Alternative. The Draft EIS analysis addresses the alternatives in two different ways. Within the Draft EIS, there is a comparison of each alternative to the comparable segment of the Proposed Action it replaces (segment specific), and there is also a comparison of start-to-finish alternatives. The start-to-finish alternatives are referred to as the Modified Proposed Action with Alternative A, B, C, or D. The segment alternatives can be substituted into a start-to-finish route in a variety of combinations to create a modified Proposed Action.

Under the No Action Alternative, the BLM would not approve a ROW grant and the Forest Service would not approve a SUP to construct, O&M, and decommission the Project. The Project infrastructure and facilities would not be built, and existing land uses and present activities in the area would continue consistent with the applicable land use plan governing management of the affected lands.

The Proposed Action, which is TransCanyon's desired alternative, includes an approximately 214-mile, 1,500-megawatt, 500-kV high-voltage alternating current (HVAC) overhead transmission line that would be constructed between the Clover Substation in central Utah and the Robinson Summit Substation in east-central Nevada. The Project would be situated within a 250-foot-wide ROW/SUP, 125 feet from centerline, which would maintain separation from other existing extra-high-voltage transmission lines as required by the North American Electric Reliability Corporation. The Project facilities would include a 500-kV HVAC overhead transmission line, new substation equipment at the Clover Substation in central Utah (within the existing substation footprint) and at the Robinson Summit Substation in east-central Nevada (within a 46-acre proposed expansion), regeneration stations near the line for the fiber optic ground wire, series compensation station(s), temporary and permanent access roads, and temporary work areas associated with construction activities.

The Alternative A segment would be 27 miles long, replacing a 23-mile-long segment of the Proposed Action in

southeastern Juab County and northeastern Millard County, Utah, to minimize potential impacts to private landowners and their viewsheds in the area near Leamington, Utah, and minimize potential impacts to the Sevier River and agricultural property.The Alternative A segment would deviate from the Proposed Action in eastern Juab County, cross BLM-administered land, and follow the route of the approved TransWest Express ROW until it rejoins the Proposed Action at the line between Juab and Millard Counties. Start-to-finish, the Modified Proposed Action with Alternative A would increase the total length of the route from 214 miles to 218 miles.

The Alternative B segment would be 159 miles long, replacing a 69-mile-long segment of the Proposed Action in central and western Millard County, Utah, to minimize crossings of the Sevier A and Sevier B Military Operating Area (MOAs) (low-level flight training areas) that are part of the Department of Defense's Utah Test and Training Range (UTTR) airspace that overlies BLM-managed lands in Utah.Alternative B would cross into Beaver County, Utah, following identified utility corridors to Milford, Utah, then turn west and north following an identified Section 368 Energy Corridor back to the Proposed Action alignment near the Utah-Nevada state line. Start-to-finish, the Modified Proposed Action with Alternative B would increase the total length of the route from 214 miles to 304 miles.

The Alternative C segment would be 13 miles long, replacing a 7-mile-long segment of the Proposed Action in eastern White Pine County, Nevada, to minimize potential impacts to the culturally sensitive Spring Valley area and Bahsawahbee Traditional Cultural Property (TCP). Alternative C would diverge from the Proposed Action and follow U.S. Highway 6/50 southwest, then follow State Route 893 northwest back to the Proposed Action. Start-to-finish, the Modified Proposed Action with Alternative C would increase the total length of the route from 214 miles to 220 miles.

The Alternative D segment would be 297 miles long, replacing a 145-mile-long segment of the Proposed Action in Millard County, Utah, and eastern White Pine County, Nevada, to avoid areas of Tribal resource concerns in Spring Valley, Nevada. Alternative D would follow the Alternative B route alignment through Beaver County, Utah, then depart from Alternative B shortly after reentering Millard County, Utah. It would then head west, north of the county line, and cross into Lincoln County, Nevada. From there, the route would head west, then southwest to an energy corridor designated in the Ely District Resource Management Plan (RMP) near Atlanta, Nevada. The route would then follow the RMP corridor west and south until it intersects the Section 368 Energy Corridor that contains the existing One Nevada Transmission Line. It would then follow the One Nevada Transmission Line north to the Robinson Summit Substation. Start-to-finish, the Modified Proposed Action with Alternative D would increase the total length of the route from 214 miles to 366 miles.

The BLM has not identified a preferred alternative in the Draft EIS. Instead, input received on the Draft EIS during the public comment period will inform which alternative would be selected as the preferred alternative in the Final EIS.

Mitigation

Applicant-Committed Environmental Protection Measures (ACEPMs) are included as part of the Proposed Action and have been identified to reduce impacts on environmental resources. These measures would apply to all action alternatives. TransCanyon and its contractor(s) would adhere to the ACEPMs identified during the engineering/design phase and to the measures addressing construction, O&M, and decommissioning activities. A full list of the ACEPMs can be found in Appendix A of the Draft EIS, which includes TransCanyon's Plan of Development (POD). The POD is expected to continue to be developed with additional details and potentially additional ACEPMs as the NEPA process progresses, and up through any authorization(s) that may be issued. Additionally, resource sections within the Draft EIS contain additional measures to avoid, minimize, or compensate for impacts to resources. The BLM is also working with state agencies to determine mitigation requirements for impacts to Greater sage-grouse.

Lead and Cooperating Agencies

The BLM serves as the lead federal agency for completing the Draft EIS. The EIS is being prepared by the BLM Fillmore Field Office, in coordination with the Cedar City Field Office in Utah, the BLM Bristlecone Field Office and Caliente Field Office in Nevada, and cooperating agencies. The BLM invited federal and state agencies and State, Tribal, and local governments to serve as cooperating agencies. The following entities accepted the invitation and are participating as cooperating agencies:

- Federal Agencies:
  - Forest Service (Humboldt-Toiyabe National Forest, Ely Ranger District)
  - EPA
  - U.S. Department of Defense (UTTR)
  - U.S. Fish and Wildlife Service
- State Agencies:
  - Utah Public Lands Policy Coordinating Office (with multiple State of Utah entities participating through this office, as noted below)
    - University of Utah Telescope Array Project
    - Utah Department of Agriculture and Food
    - Utah Department of Transportation
    - Utah Division of Wildlife Resources
    - Utah Trust Lands Administration
  - Nevada Department of Wildlife
  - Nevada Division of Minerals
  - Nevada Sagebrush Ecosystem Program
  - Nevada State Lands Division

Nevada N–4 State Grazing Board

- Local Governments and Agencies:
  - Beaver County, Utah
  - Juab County, Utah
  - Millard County, Utah
  - Lincoln County, Nevada
  - Nye County, Nevada
  - White Pine County, Nevada
  - City of Ely, Nevada
  - Lincoln County Conservation District
- Tribal Governments:
  - Duckwater Shoshone Tribe
  - Te-Moak Tribe of Western Shoshone-Elko Band

Cooperating agency participation may include developing information and preparing analyses, contributing technical expertise to enhance the lead agency's interdisciplinary capabilities, and providing comments for those matters for which it has jurisdiction by law or special expertise. The Tribal governments noted above have elected to participate as cooperating agencies. The cooperating agency relationship established here supplements and is subordinate to the government-to-government relationship between Tribal Nations and the BLM.

Schedule for the Decision-Making Process

The BLM anticipates releasing a Final EIS in August 2024 and anticipates issuing a Record of Decision in December 2024.

Public Involvement Process

On May 2, 2022, the BLM published a Notice of Intent (NOI) to prepare an EIS in the **Federal Register** (87 **Federal Register** 25656), announcing the beginning of the public scoping process.

While the NOI identified the end date of the scoping period as May 31, 2022, the BLM ultimately extended it until June 1, 2022. Two virtual public scoping meetings were held on May 17 and May 18, 2022. During the scoping period, the BLM received 59 unique submittals totaling 416 discrete comments. The Environmental Impact Statement Scoping Report for the Cross-Tie 500-kV Transmission Project can be found on BLM's ePlanning Project website (see **ADDRESSES**).

This NOA initiates the Draft EIS review process. The BLM will hold one virtual and up to four in-person public information meetings associated with the Project. Possible in-person meeting locations include: Ely, Nevada, and Delta, Milford, and Nephi, Utah. The specific date(s) and location(s) of these meetings will be announced at least 10 days in advance through news releases, local media, social media, and the BLM's ePlanning Project website (see **ADDRESSES**). During the public comment period, the BLM will accept comments through email, mail, and hotline.

The BLM will continue to consult with Indian Tribal Nations on a government-to-government basis in accordance with Executive Order 13175, BLM Manual Section 1780, and other Departmental policies. Tribal concerns, including impacts on Indian trust assets and potential impacts to cultural resources, will be given due consideration. Consultation will continue on an individual basis with interested Tribes.

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.

(Authority: 40 CFR 1506.6, 40 CFR 1506.10)

Gregory Sheehan,

BLM Utah State Director.

[FR Doc. 2023–24748 Filed 11–8–23; 8:45 am]

BILLING CODE 4331–25–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_HQ_FRN_MO4500175781]

Wild Horse and Burro Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Wild Horse and Burro Advisory Board (Board) will hold a public meeting.

DATES: The Board will meet in person from December 12 through 14, 2023; 8 a.m. to 5 p.m. Mountain Time (MT) Tuesday through Thursday. The BLM will host two educational field tours for the Board on Tuesday, December 12, 8 a.m. to 2:30 p.m. MT, and on Thursday, December 14, 8 a.m. to 2 p.m. MT, which are open to the public. The December 14 public meeting will resume at 2:15 p.m. at the BLM National Training Center (see **ADDRESSES** section below).

ADDRESSES: The Board will meet in Phoenix, Arizona, at the BLM National Training Center in the Arizona room located at 9828 N 31st Ave., Phoenix, AZ 85051.

The meeting is open to the public. The public may attend the meeting in person or watch via live stream at *www.blm.gov/live.*

The final agenda will be posted 2 weeks prior to the meeting and can be found on the following website: *www.blm.gov/programs/wild-horse-and-burro/get-involved/advisory-board.*

The tours will commence and conclude at the BLM National Training Center. Due to limited space, those wishing to attend the educational field tours should register via email to *dboothe@blm.gov* no later than 5 p.m. MT on November 29, 2023. Those attending the tours should bring a high clearance vehicle and any necessary food, health, and safety items for a full day in the field.

FOR FURTHER INFORMATION CONTACT: Dorothea Boothe, Wild Horse and Burro Program Coordinator: telephone: (602) 906–5543, email: *dboothe@blm.gov.* 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: The Board advises the Secretary of the Interior, the BLM Director, the Secretary of Agriculture, and the Chief of the U.S. Forest Service on matters pertaining to the management and protection of wild, free-roaming horses and burros on the Nation's public lands. The Board operates in accordance with 43 CFR 1784.

Advisory Board Meeting Agenda

Tuesday, December 12, 2023

8 a.m.–2:30 p.m. Mountain Time (MT)
Board Educational Field Tour to Lake Pleasant Herd Management Area (HMA)
(High clearance vehicle recommended, limited space and advance registration required)

Wednesday, December 13, 2023

Session 1—8 a.m. to 10 a.m. MT
Meeting Called to Order
Administrative Announcements
Welcome Remarks from BLM Arizona
BLM Arizona Wild Horse and Burro Program Overview
U.S. Forest Service Wild Horse and Burro Program Region 3 Update
Approval of Meeting Minutes: June 2023
Discussion: BLM and USFS Responses to Board Recommendations from June 2023
Board Meeting
BREAK—10 a.m. to 10:15 a.m. MT
Session 2—10:15 a.m. to 11:15 a.m. MT

Public Comment Period (First)

LUNCH BREAK—11:15 a.m. to 12:45 p.m. MT
Session 3—12:45 p.m. to 2:45 p.m. MT
Panel Discussion: Livestock, Wild Horses and Burros and Landscapes
BREAK—2:45 p.m. to 3 p.m. MT
Session 4—3 p.m. to 4:30 p.m. MT
BLM and U.S. Forest Service Program Updates
Session 5—4:30 p.m. to 5 p.m. MT
Advisory Board Discussion and Wrap Up
Adjourn

Thursday, December 14, 2023

8 a.m. to 2 p.m. MT
Board Educational Field Trip to Florence Wild Horse and Burro Off-Range Corral and Training Facility (Limited space; advance registration required)
BREAK—2 p.m. to 2:15 p.m. MT
Session 6—2:15 p.m. to 3 p.m. MT
Advisory Board Subcommittee Reports and Draft Recommendations

Session 7—3 p.m. to 4 p.m. MT

Public Comment Period (Second)

Session 8—4 p.m. to 5 p.m. MT
Advisory Board Discussion and Finalize Recommendations (Board vote)
Adjourn
Agenda may be subject to change.

Public Participation: Due to limited space, those wishing to attend the educational tour to the Lake Pleasant Herd Management Area on December 12 must register via email to *dboothe@blm.gov* no later than 5 p.m. MT on November 29, 2023. Attendees must provide their own high clearance transportation and any necessary food, health and safety items needed for a full day in the field.

The Board, the BLM, and the USFS welcome comments from all interested parties. The public will have an opportunity to make a verbal statement to the Advisory Board in person and virtually via Zoom (audio only) on Wednesday, December 13, from 10:15 a.m. to 11:15 a.m. MT and on Thursday, December 14, from 3 p.m. to 4 p.m. MT. To provide comments via Zoom, interested parties must register by December 8, 2023 at the following website: *https://www.blm.gov/programs/wild-horse-and-burro/advisory-board.* To provide comments in-person, interested parties may register on-site up to one hour before the comment period commences. Individuals who have not registered in advance may be permitted to offer comment if time allows. Participants using desktops, laptops, smartphones, and other personal digital devices will be able to participate with audio only via a link provided by the BLM. Those with phone-only access will be able to participate via a phone number and meeting ID provided by the BLM at the time of registration. The Board may limit the length of comments, depending on the number of participants who register in advance. The public may also submit written comments to the Board in addition to, or in lieu of, providing verbal comment. Written comments should be submitted to the Advisory Board at *BLM_WO_Advisory_Board_Comments@blm.gov*. Comments emailed three days prior to the meeting no later than 5 p.m. MT will be provided to the Advisory Board for consideration during the meeting. The BLM will record the entire meeting, including the allotted public comment sessions. Comments should be specific and explain the reason for the recommendation(s). Comments supported by quantitative information, studies, or those that include citations and analysis of applicable laws and regulations are most useful, and more likely to assist the decision-making process for the management and protection of wild horses and burros.

Beyond live captioning, any person(s) with special needs, such as for an auxiliary aid, interpreting service, assistive listening device, or materials in an alternate format, must notify Ms. Boothe 2 weeks before the scheduled meeting date. It is important to adhere to the 2-week notice to allow enough time to arrange for the auxiliary aid or special service. Live captioning will be available throughout the event on the BLM livestream page at *www.blm.gov/live.*

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, the BLM cannot guarantee that it will be able to do so.

(Authority: 43 CFR 1784.4–2)

Sharif D. Branham,

Assistant Director, Resources and Planning.

[FR Doc. 2023–24769 Filed 11–8–23; 8:45 am]

BILLING CODE 4331–27–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

Fee Rate and Fingerprint Fees

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that the National Indian Gaming Commission has adopted its annual fee rates of 0.00% for tier 1 and 0.08% (.0008) for tier 2, which maintain the current fee rates. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission. If a tribe has a certificate of self-regulation, the fee rate on Class II revenues shall be 0.04% (.0004) which is one-half of the annual fee rate. The annual fee rates are effective November 1, 2023, and will remain in effect until new rates are adopted. The National Indian Gaming Commission has also adopted its fingerprint processing fee of $53 per card which represents an increase of $8 per card. The fingerprint processing fee is effective November 1, 2023, and will remain in effect until the Commission adopts a new rate.

FOR FURTHER INFORMATION CONTACT: Yvonne Lee, National Indian Gaming Commission, 1849 C Street NW, Mail Stop #1621, Washington, DC 20240; telephone (202) 632–7003; fax (202) 632–7066.

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) established the National Indian Gaming Commission, which is charged with regulating gaming on Indian lands.

Commission regulations (25 CFR 514) provide for a system of fee assessment and payment that is self-administered by gaming operations.

Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates and the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission. All gaming operations within the jurisdiction of the Commission are required to self-administer the provisions of these regulations, and report and pay any fees that are due to the Commission. It is necessary for the Commission to maintain the fee rate to ensure that the agency has sufficient funding to fully meet its statutory and regulatory responsibilities as the gaming industry continues to emerge from the pandemic. In addition, it is critical for the Commission to maintain constantly an adequate transition carryover balance to cover any cash flow variations.

Pursuant to 25 CFR 514, the Commission must also review annually the costs involved in processing fingerprint cards and set a fee based on fees charged by the Federal Bureau of Investigation and costs incurred by the Commission. Commission costs include Commission personnel, supplies, equipment & infrastructure costs, and postage to submit the results to the requesting tribe. The number of fingerprint cards submitted to the NIGC for processing has significantly decreased since the pandemic. The fingerprint processing fee increase is a result of spreading the fixed costs allocated to fingerprint processing over a smaller number of cards processed. In addition, the FY24 fingerprint processing fee includes the cost allocation from the one-time capital investments associated with the Washington, DC headquarters office relocation and the Agency's hardware refresh of core networking and server computing devices required to support the Agency's infrastructure operations. Maintaining valid support agreements and replacing aging hardware when needed is vital to ensure maximum uptime for IT operations while

minimizing disruptions to business processes, including the Tribal fingerprint services. In FY24 the Commission will also continue its commitment to take necessary measures to comply with the Federal Bureau of Investigation Criminal Justice Information Services (FBI CJIS) requirements which ensure the NIGC and participating tribes can continue to use FBI criminal history report information (CHRI) to assist in determining a key employee or primary management official's eligibility for a gaming license.

Dated: November 1, 2023.

Edward Simermeyer,

Chairman.

Dated: November 1, 2023.

Jean Hovland,

Vice Chair.

[FR Doc. 2023–24780 Filed 11–8–23; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2023–0013]

Gulf of Mexico Outer Continental Shelf Oil and Gas Lease Sale 261

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice regarding Lease Sale 261.

SUMMARY: With this notice, the Bureau of Ocean Energy Management (BOEM) is announcing that it is postponing Gulf of Mexico Lease Sale 261 pending further action by the United States Court of Appeals for the Fifth Circuit. To comply with an injunction sought and obtained by the State of Louisiana and other plaintiffs from the district court, as well as a subsequent order from the Fifth Circuit, BOEM had previously provided notice of its intent to hold Lease Sale 261 on November 8, 2023. On October 26, 2023, however, the Fifth Circuit stayed the relevant injunction and order pending the merits panel's decision on appeal. To avoid preempting the Fifth Circuit's decision, and avoid duplication of effort, BOEM is now deferring Lease Sale 261 pending disposition of the appeal that is before the Fifth Circuit.

Therefore, BOEM will not open and announce bids for the sale on November 8, 2023. BOEM will make future announcements regarding when and under what terms Lease Sale 261 will be held after the Court issues its ruling or provides additional direction to BOEM. Additional information and announcements will be made available on BOEM's website prior to the sale date. See *http://www.boem.gov/sale-261.*

FOR FURTHER INFORMATION CONTACT: The New Orleans Office Lease Sale Coordinator, Greg Purvis, at *BOEMGOMRLeaseSales@boem.gov* or 504–736–1729.

SUPPLEMENTARY INFORMATION: On August 25, 2023, BOEM published in the **Federal Register** the Final Notice of Sale (NOS) for Lease Sale 261. See 88 FR 58300. In that Final NOS, BOEM announced that the sale would be held on September 27, 2023. The State of Louisiana and other plaintiffs then challenged the Final NOS in the U.S. District Court for the Western District of Louisiana, seeking preliminary injunctions to force BOEM to (1) include lease blocks previously excluded to protect the Rice's whale and (2) remove provisions in Stipulation No. 4 (''Protected Species'') that BOEM had added to protect the Rice's whale from certain oil and gas activities while BOEM engaged in a reinitiated consultation under the Endangered Species Act.

On September 21, 2023, six days before the planned sale, the district court issued a preliminary injunction order requiring BOEM to include the previously excluded blocks and modify the stipulation by removing the new Rice's whale protections. The court also ordered BOEM to hold the sale on or before September 30, 2023. On September 22, 2023, the government appealed and filed an emergency motion in the U.S. Court of Appeals for the Fifth Circuit, requesting that the court stay or modify the injunction to avoid an inequitable sale and to allow for the administrative and legal processes necessary to hold the modified sale and provide the statutorily required notice to the public of the revised lease sale terms. (Case No. 23–30666). Intervenor-Defendants also appealed and filed an emergency motion in the Fifth Circuit, requesting that the Court stay the injunction in its entirety. On September 25, 2023, the Fifth Circuit issued an order directing BOEM to hold Lease Sale 261 as required by the district court, but permitting BOEM until November 8, 2023, to hold the sale. On October 6, 2023, BOEM published a revised Final NOS in accordance with the September 25, 2023, order, announcing the modified terms of the sale and notifying bidders that it would open bids on November 8, 2023. See 88 FR 69660. On October 26, 2023, the Fifth Circuit stayed the injunction in its entirety pending further action by that court and scheduled oral argument for November 13, 2023.

Under the Outer Continental Shelf Lands Act, BOEM has inherent discretion to postpone lease sales on reasonable grounds, including, as described in the October 6, 2023, notice, to comply with court orders. Because BOEM anticipates that the Fifth Circuit will further clarify the scope of BOEM's discretion and obligations concerning Lease Sale 261, BOEM has concluded that holding Lease Sale 261 before the Fifth Circuit resolves the appeal could result in duplication of effort and bidder confusion in the event that the November 8, 2023, sale is inconsistent with the Fifth Circuit's subsequent guidance. BOEM will therefore not hold Lease Sale 261 on November 8, 2023. Bidders wishing to participate in Lease Sale 261 should not submit bids until receiving further instructions from BOEM. Bids that were already received will be held by BOEM, and BOEM will notify bidders of how those bids will be handled once it receives further direction from the Fifth Circuit. In reaching this conclusion, BOEM is cognizant that the Inflation Reduction Act of 2022 directs BOEM to hold Lease Sale 261 by September 30, 2023, a deadline that BOEM was prepared to meet prior to plaintiffs' lawsuits.

As set forth above, BOEM is postponing the sale beyond its originally scheduled date in response to plaintiffs' lawsuits and the resulting judicial orders.

Authority: 43 U.S.C. 1337; 30 CFR part 556.

Elizabeth Klein,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2023–24834 Filed 11–8–23; 8:45 am]

BILLING CODE 4340–98–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the

Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''National Compensation Survey.'' A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before January 8, 2024.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room G225, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by email to *BLS_PRA_Public@bls.gov.*

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, at 202–691–7628 (this is not a toll-free number.) (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The National Compensation Survey (NCS) is an ongoing survey of earnings and benefits among private firms, States, and local government. The NCS is used to produce the Employment Cost Trends, including the Employment Cost Index (ECI) and Employer Costs for Employee Compensation (ECEC), employee benefits data (plan access, coverages, and provisions), Modeled Wage Estimates (MWE), and data used by the President's Pay Agent. This data is used by compensation administrators and researchers in the public and private sectors. Data from the NCS are used to help in determining monetary policy (as a Principal Federal Economic Indicator). The integrated program's single sample produces both time-series indexes and cost levels for industry and occupational groups, thereby increasing the analytical potential of the data.

The NCS employs probability methods for selection of occupations, which ensures that sampled occupations represent all occupations in the workforce, while minimizing the reporting burden on respondents. The survey collects data from a sample of employers. These data will consist of information about the duties, responsibilities, and compensation (earnings and benefits) for a sample of occupations for each sampled employer.

Data will be updated on a quarterly basis. The updates will allow for production of data on change in earnings and total compensation.

II. Current Action

Office of Management and Budget clearance is being sought for an extension of the NCS.

The NCS collects earnings and work level data on occupations for the nation. The NCS also collects information on the cost, provisions, and incidence of major employee benefits through its benefit cost and benefit provision publications.

The BLS has been using a revised approach to the Locality Pay Survey (LPS) component of the NCS; this uses data from two current BLS programs—the Occupational Employment and Wage Statistics (OEWS) survey and the NCS program. This approach uses OEWS data to provide wage data by occupation and by area, while NCS data are used to specify grade level effects. This approach is also being used to extend the estimation of pay gaps to areas that were not included in the prior Locality Pay Survey sample, and these data have been delivered to the Pay Agent (in 2023, data for 115 areas were delivered).

The NCS has a national survey design. The NCS private industry sample is on a three-year rotational cycle, with one frozen sample year every ten years for the NCS private industry sample when a new NCS State and local government sample starts (approximately in 2025).

The NCS continues to provide employee benefit provision and participation data. These data include estimates of how many workers receive the various employer-sponsored benefits. The data also include information about the common provisions of benefit plans.

NCS collection will use a number of collection forms having unique private industry and government initiation and update collection forms and versions. For NCS update collection, the forms or screens give respondents their previously reported information, the dates they expected change to occur to these data, and space for reporting these changes.

For electronic collection, the NCS uses a Web-based system (Web-Lite) that allows NCS respondents, using Secure Sockets Layer (SSL) encryption and the establishment's schedule number, to upload data files to a secure BLS server that forwards those files to the assigned BLS field economist.

Some benefits, called ''Other benefits,'' data are collected to track the emergence of new or changing benefits over time. The BLS only asks whether sampled occupations receive these benefits and periodically modifies this list.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- 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.

Title of Collection: National Compensation Survey.

OMB Number: 1220–0164.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit; not-for-profit institutions; and State, local, and tribal governments.

Affected Public: Businesses or other for-profit; not-for-profit institutions; and State, local, and tribal governments.

Total Respondents: 19,567 (three-year average).

All figures are based on a three-year average. The total responses are higher as some respondents are contacted multiple times.

	Respondents	Average responses per year	Total number of responses	Average minutes	Total hours
Three-year average	19,567	2.7545	53,897	46.1603	41,465

COLLECTION FORMS

National Compensation Survey (Private Industry sample).	NCS 24–1P, NCS 24–2P, NCS 24–5P, NCS–9P, SO–1003P, E-update, SO100BF–1GP, IDCF.	Establishment Form, Earnings Form, Benefits Form, Earning Update Form, Benefits Update Form, E-update Screen, Benefits Update Fillable Form, NCS IDCF Screen.
National Compensation Survey (State and local government sample).	NCS 24–1G, NCS 24–2G, NCS 24–5G, NCS–9G, SO–1003G, E-update, SO100BF–1GP, IDCF.	Establishment Form, Earnings Form, Benefits Form, Earning Update Form, Benefits Update Form, E-update Screen, Benefits Update Fillable Form, NCS IDCF Screen.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 3rd day of November 2023.

Eric Molina,

Chief, Division of Management Systems, Branch of Policy Analysis.

[FR Doc. 2023–24732 Filed 11–8–23; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petition for Modification of Application of Existing Mandatory Safety Standard; Correction

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice; correction.

SUMMARY: This notice amends a petition for modification published in the **Federal Register** on October 19, 2023, for Peabody Midwest Mining, LLC, CR 725 East, Francisco, Indiana 47699.

FOR FURTHER INFORMATION CONTACT: S. Aromie Noe, Office of Standards, Regulations, and Variances at 202–693–9440 (voice), *Petitionsformodification@dol.gov* (email), or 202–693–9441 (fax). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

Correction

This notice corrects the docket number cited in the notice. Docket Number M–2023–021–C is incorrectly referenced in the **Federal Register**, 88 FR 72106, October 19, 2023, first column. The correct Docket Number is M–2023–024–C.

Song-ae Aromie Noe,

Director, Office of Standards, Regulations, and Variances.

[FR Doc. 2023–24835 Filed 11–8–23; 8:45 am]

BILLING CODE P

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act of 1974; System of Records

AGENCY: Office of Management and Budget.

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget Circular No. A–108, Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act, notice is hereby given that the Office of Management and Budget (OMB) is establishing the following new system of records: ''OMB Freedom of Information Act and Privacy Act Requests System of Records, OMB/FOIAPA/01.'' This system covers all information pertaining to Freedom of Information (FOIA) or Privacy Act requests and information relating to other agencies' FOIA or Privacy Act requests received through the National FOIA Portal (*www.foia.gov*), email, hardcopy communications, and other authorized means, including OMB's FOIA and Privacy Act tracking, management, reporting, and e-Discovery software and tools. This system also covers information pertaining to any administrative appeals or litigation relating to FOIA or Privacy Act requests to OMB or to another agency.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records notice (SORN) is effective upon its publication in today's **Federal Register**, with the exception of the routine uses, which are subject to a 30-day comment period, and will be effective December 11, 2023. Please submit any comments on or before December 11, 2023.

ADDRESSES: You may submit comments by:

Email: SORN@omb.eop.gov.

Instructions: All submissions must contain the subject heading ''OMB FOIA/PA Requests System.''

Privacy Act Statement: Submission of comments is voluntary. The information will be used to inform sound decision making. Please note that all comments received in response to this notice may be posted or released in their entirety, including any personal and business confidential information provided. Do not include any information you would not like to be made publicly available. Additionally, the OMB System of Records Notice, OMB Public Input System of Records, OMB/INPUT/01 includes a list of routine uses associated with the collection of this information.

FOR FURTHER INFORMATION CONTACT: For general questions and privacy issues, please contact Shraddha A. Upadhyaya by email at *SORN@omb.eop.gov* or by phone at (202) 395–9225. You must include ''OMB FOIA/PA Requests System'' in the subject line.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552, and the Office of Management and Budget (OMB), Circular No. A–108, OMB proposes to create a new system of records for OMB titled, ''OMB Freedom of Information Act and Privacy Act Requests System of Records, OMB/FOIAPA/01'' (OMB FOIA/PA Requests System).''

The OMB FOIA/PA Requests System covers all information related to Freedom of Information Act (FOIA) or

Privacy Act requests and information relating to other agencies' FOIA or Privacy Act requests received through the National FOIA Portal (*www.foia.gov*), email, hardcopy communications, and other authorized means. This system also covers information pertaining to any administrative appeals or litigation relating to FOIA or Privacy Act requests to OMB or to another agency.

II. Privacy Act

The Privacy Act embodies fair information practice principles in a statutory framework governing the means by which Federal Government agencies collect, maintain, use, and disseminate individuals' records. The Privacy Act applies to information that is maintained in a ''system of records.'' A ''system of records'' is a group of any records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass U.S. citizens and lawful permanent residents. Additionally, the Judicial Redress Act of 2015 (JRA), 5 U.S.C. 552a note, provides citizens of designated foreign countries with certain rights of redress for intentional or willful disclosures of covered records, as defined by the JRA, except as otherwise permitted by the Privacy Act.

Under the Privacy Act, 5 U.S.C. 552a, OMB receives requests from individuals for access to their own records or information pertaining to them, as well as requests from individuals to amend records pertaining to them, requests from individuals for notification if a record pertains to them, or requests from individuals for an accounting of disclosures of records pertaining to them. OMB's Privacy Act Procedures can be found at 5 CFR 1302.

III. Freedom of Information Act

The FOIA provides a right of access to certain records and information Federal agencies maintain and control. Any agency, upon any request for records which (i) reasonably describes such records and (ii) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person. The FOIA does not apply to information that satisfies one of nine exemptions under 5 U.S.C. 552(b), unless disclosure is warranted under the foreseeable harm standard. Additionally, any reasonably segregable portion of a record shall be provided after deletion of the portions which are exempt under 5 U.S.C. 552(b).

Under the FOIA, 5 U.S.C. 552, OMB receives requests for records from ''any person'' within the meaning of the statute. OMB makes available records in accordance with OMB's FOIA Procedures which can be found at 5 CFR 1303.

IV. Other Agencies

OMB also engages in inter-agency consultations of these requests when necessary to comply with OMB's legal obligations under FOIA and the Privacy Act. Inter-agency consultations include requests for consultation between OMB and other agencies and entities, which include requests for consultation from other agencies to OMB and from OMB to other agencies and entities.

In accordance with 5 U.S.C. 552a(r), OMB has provided a report of this system of records to OMB and to Congress.

Below is the description of the OMB FOIA/PA Requests System.

SYSTEM NAME AND NUMBER:

OMB Freedom of Information Act and Privacy Act Requests System of Records, OMB/FOIAPA/01.

SECURITY CLASSIFICATION:

The system may contain classified information, but only to the extent the FOIA or Privacy Act request requires review of classified information. Any classified information will be maintained on systems rated to store such information, in accordance with E.O. 12958, 60 FR 19825 (Apr. 20, 1995) and applicable executive order(s) governing classified information, 32 CFR 2001, and 5 CFR 1312.

SYSTEM LOCATION:

Records are maintained at OMB, 725 17th Street NW, Washington, DC 20503.

SYSTEM MANAGER(S):

OMB FOIA Officer, 725 17th Street NW, Washington, DC; *OMBFOIA@omb.eop.gov.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Freedom of Information Act, 5 U.S.C. 552; Privacy Act, 5 U.S.C. 552a; 44 U.S.C. 3101; 5 U.S.C. 301; and E.O. 12598 and applicable executive order(s) governing classified information.

PURPOSE(S) OF THE SYSTEM:

OMB receives requests pursuant to FOIA and the Privacy Act, including inter-agency consultations. OMB also adjudicates administrative appeals and handles litigation relating to these requests. The purpose of this system of records is:

—To fulfill obligations under the FOIA, and related policy and guidance, and to assist other agencies in doing the same.

—To fulfill obligations under the Privacy Act, and related policy and guidance, and to assist other agencies in doing the same.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system includes all individuals who submit FOIA or Privacy Act requests and administrative appeals to OMB; individuals whose requests for records have been referred to OMB by other agencies or entities; attorneys or other persons representing individuals submitting such requests and appeals; individuals who are the subject of such requests and appeals or whose information may appear in records required for processing requests and appeals; and individuals who file litigation based on their requests.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes records created, compiled, or received in response to FOIA and Privacy Act requests and administrative appeals and includes: The original requests and administrative appeals; responses to such requests and administrative appeals; all related memoranda, correspondence, notes, and other related or supporting documentation; and, in some instances, copies of requested records and records under administrative appeal.

RECORD SOURCE CATEGORIES:

OMB receives records from members of the public, including representatives of Federal, State, or local governments, non-government organizations, and the private sector, as well as from other federal agencies and entities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under the Privacy Act, 5 U.S.C. 552a(b), all or a portion of the records or information contained therein may be disclosed outside of OMB as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To a federal, state, local, tribal, or foreign agency or entity for the purpose of consulting with that agency or entity to enable OMB to make a determination as to the propriety of access to, accounting of, or amendment of information, or for the purpose of verifying the identity of an individual or the accuracy of information submitted by an individual who has requested access to, accounting of, or amendment of information.

B. To any agency or entity that furnished the record or information for the purpose of permitting that agency or entity to make a decision as to access to or amendment of the record or information, or to a federal agency or entity for purposes of providing guidance or advice regarding the handling of particular requests.

C. To a submitter or subject of a record or information in order to obtain assistance to OMB in making a determination as to access, amendment, or accounting.

D. To appropriate agencies and entities, for the purpose of resolving an inquiry regarding compliance with the Freedom of Information Act.

E. To the Department of Justice (DOJ) when any of the following is a party to litigation before any court, adjudicative, or administrative body or has an interest in such litigation, and the use of such records by DOJ is deemed by OMB to be relevant and necessary to the litigation:

(1) OMB, or any component thereof;

(2) any employee or former employee of OMB in the employee's official capacity;

(3) any employee or former of employee of OMB in the employee's individual capacity where DOJ has agreed to represent the employee; or

(4) a Federal agency, a Federal entity, a Federal official, or the United States, where OMB determines that litigation is likely to affect OMB or any of its components.

F. In a proceeding before a court or adjudicative body before which OMB is authorized to appear, when OMB determines that the records are relevant and necessary to the litigation; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

G. To a congressional office in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.

H. To any agency or organization for the purpose of performing audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function.

I. To the National Archives and Records Administration (NARA) for purposes of records management and mail processing inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

J. To NARA, Office of Government Information Services (OGIS), to the extent necessary to fulfil its responsibilities in 5 U.S.C. 552(h), to review administrative agency policies, procedures, and compliance with the Freedom of Information Act, and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies.

K. To appropriate officials and employees of a federal agency or entity when the information is relevant to a decision concerning the hiring, appointment, or retention of an employee; the assignment, detail, or deployment of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract; or the issuance of a grant or benefit.

L. To appropriate agencies, entities, and persons when

(1) OMB suspects or has confirmed that there has been a breach of the system of records;

(2) OMB has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, OMB (including its information systems, programs, and operations), the Federal Government, or national security; and

(3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with OMB's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

M. To another Federal agency or Federal entity, when OMB determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in

(1) responding to a suspected or confirmed breach; or

(2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

N. Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate Federal, state, local, territorial, tribal, international, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

O. To contractors and their agents, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for OMB, when necessary to accomplish an agency function related to this system of records. Individuals provided information under this routine use are subject to the same requirements and limitations on disclosure as are applicable to OMB officers and employees.

P. To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored in electronic or paper form in secure facilities. The records may be stored on magnetic disc, tape, and digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by full-text search or by individuals' FOIA/PA case number, name, title, or organization.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

These records will be retired and destroyed in accordance with published records schedules of the Office of Management and Budget and the General Records Schedules as approved by NARA.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

All electronic records are maintained in secure systems which require multi-factor authentication and that use security hardware and software to include multiple firewalls, encryption, identification, and authentication of users. All security controls are reviewed on a periodic basis by external assessors. The controls themselves include measures for access control, security awareness training, audits, configuration management, contingency planning, incident response, and maintenance. Access to the information technology systems containing the records in this system is limited to those individuals who need the information for the performance of their official duties and who have appropriate clearances or permissions.

RECORD ACCESS PROCEDURES:

Individuals' requests for access to records in this system of records may be sent to OMB's Privacy Officer, by mail to Office of Management and Budget, 725 17th Street NW, Room 9268, Washington, DC 20503, or by email to *OMBPA@omb.eop.gov,* and should be made in accordance with OMB's Privacy Act Procedures which can be found at 5 CFR 1302.

CONTESTING RECORD PROCEDURES:

Individuals' requests for amendment of a record in this system of records may be sent to OMB's Privacy Officer, by mail to Office of Management and Budget, 725 17th Street NW, Room 9268, Washington, DC 20503, or by email to *OMBPA@omb.eop.gov,* and should be made in accordance with OMB's Privacy Act Procedures, which can be found at 5 CFR 1302.

NOTIFICATION PROCEDURES:

Individuals' requests for notification as to whether this system of records contains a record pertaining to them may be sent to OMB's Privacy Officer, by mail to Office of Management and Budget, 725 17th Street NW, Room 9268, Washington, DC 20503, or by email to *OMBPA@omb.eop.gov,* and should be made in accordance with OMB's Privacy Act Procedures, which can be found at 5 CFR 1302.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

During the course of a FOIA or a PA action, exempt materials from other systems of records may in turn become part of the case records in this system. To the extent that copies of exempt records from those other systems of records are maintained in the OMB FOIA/PA Requests System, OMB hereby claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary systems of records of which they are a part.

HISTORY:

None.

Shraddha A. Upadhyaya,

Senior Agency Official for Privacy, Office of Management and Budget.

[FR Doc. 2023–24692 Filed 11–8–23; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (23–114)]

NASA Advisory Council; Technology, Innovation and Engineering Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Aeronautics and Space Administration (NASA) announces a meeting of the Technology, Innovation, and Engineering Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC.

DATES: Thursday, November 30, 2023, 8:30 a.m.–5:00 p.m., Eastern Time.

ADDRESSES: Meeting will be virtual. See dial-in and Webex information below under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Green, Designated Federal Officer, Space Technology Mission Directorate, NASA Headquarters, Washington, DC 20546, via email at *g.m.green@nasa.gov* or (202) 358–4710.

SUPPLEMENTARY INFORMATION: This meeting will only be available by Webex or telephonically for members of the public. If dialing in via toll number, you must use a touch-tone phone to participate in this meeting. Any interested person may join via Webex at *https://nasaenterprise.webex.com,* the meeting number is 2764 038 3536, and the password is n@cTIE113023. The toll number to listen by phone is +1–415–527–5035. To avoid using the toll number, after joining the Webex meeting, select the audio connection option that says, ''Call Me'' and enter your phone number. If using the desktop or web app, check the ''Connect to audio without pressing 1 on my phone'' box to connect directly to the meeting.

Note: If dialing in, please mute your telephone.

The agenda for the meeting includes the following topics:

—Welcome to NASA Langley Research Center

—Space Technology Mission Directorate (STMD) Update

—Low Earth Orbit Flight Test of an Inflatable Decelerator (LOFTID) Results Discussion and Hypersonic Inflatable Aerodynamic Decelerator (HIAD) Technology Demonstration

—2020 Space Technology Research Institute Update: Advanced Computational Center for Entry System Simulation (ACCESS)

—Office of the Chief Engineer Update

—NASA Nuclear Propulsion Update

—Early Career Initiative Presentations from NASA Langley Research Center

It is imperative that this meeting be held on this day to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2023–24813 Filed 11–8–23; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (23–115)]

National Space-Based Positioning, Navigation and Timing Advisory Board; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Aeronautics and Space Administration (NASA) announces a meeting of the National Space-Based Positioning, Navigation and Timing (PNT) Advisory Board. This will be the 29th meeting of the PNT Advisory Board.

DATES: Wednesday, December 6, 2023, from 9:00 a.m.–6:00 p.m., Central Time; and Thursday, December 7, 2023, from 9:00 a.m.–12:00 p.m., Central Time.

ADDRESSES: South Shore Harbour Resort and Conference Center; 2500 South Shore Blvd., League City, TX 77573.

FOR FURTHER INFORMATION CONTACT: Mr. James Joseph Miller, Designated Federal Officer, PNT Advisory Board, Space Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 262–0929 or *jj.miller@nasa.gov.*

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the capacity of the meeting room. In-person attendees will be requested to sign a register prior to entrance to the proceedings. Webcast details to watch the meeting remotely will be available on the PNT Advisory Board website at: *www.gps.gov/governance/advisory/.*

The agenda for the meeting will include the following:

- Updates from PNT Advisory Board Subcommittees:
  - Communications and External Relations (CER) Subcommittee
  - Education and Science Innovation (ESI) Subcommittee
  - Emerging Capabilities, Applications and Sectors (ECAS) Subcommittee
  - International Engagement (IE) Subcommittee
  - Protect, Toughen and Augment (PTA) Subcommittee
  - Strategy, Policy and Governance (SPG) Subcommittee
- PNT Expert Briefings
- Review and Approval of any PNT Advisory Board White Papers
- Deliberations on any Proposed Findings and Recommendations
- Other PNT Advisory Board Business and Upcoming Work Plan Schedule

For further information, visit the PNT Advisory Board website at: *https://www.gps.gov/governance/advisory/.*

It is imperative that the meeting be held on this date to meet the scheduling availability of key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2023–24815 Filed 11–8–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (23–113)]

National Space Council Users' Advisory Group; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, NASA announces a meeting of the National Space Council Users' Advisory Group (UAG).

DATES: Friday, December 1, 2023, from 11:00 a.m.–2:00 p.m., Eastern Time.

ADDRESSES: Virtual meeting via dial-in teleconference and WebEx only.

Virtual Access via Internet and Phone: Access information links for both virtual video and audio lines will be posted in advance at the following UAG website: *https://www.nasa.gov/usersadvisorygroup/*.

FOR FURTHER INFORMATION CONTACT: Mr. James Joseph Miller, UAG Designated Federal Officer and Executive Secretary, Space Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 262–0929 or *jj.miller@nasa.gov*.

The agenda for the meeting will include the following:

- Introduction by UAG Chair, General Lester Lyles (USAF, Ret.)
- Opening Remarks
- Expert Presentations
- Report from UAG Subcommittee Chairs:
  - —Exploration and Discovery
  - —Economic Development and Industrial Base
  - —Climate and Societal Benefits
  - —Data and Emerging Technology
  - —STEM Education, Diversity and Inclusion
  - —National Security
- Deliberations on Proposed Findings and Recommendations
- Next Steps

For further information about membership and a detailed agenda, visit the UAG website at: *https://www.nasa.gov/usersadvisorygroup/*.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2023–24814 Filed 11–8–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION OF THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

48th Meeting of the National Museum and Library Services Board

AGENCY: Institute of Museum and Library Services (IMLS), National Foundation of the Arts and the Humanities (NFAH).

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Museum and Library Services Board will meet to advise the Director of the Institute of Museum and Library Services (IMLS) with respect to duties, powers, and authority of IMLS relating to museum, library, and information services, as well as coordination of activities for the improvement of these services.

DATES: The meeting will be held on December 13, 2023, from 9 a.m. Mountain Time until adjourned.

ADDRESSES: The meeting will convene in a hybrid format. Virtual meeting and audio conference technology will be used to connect virtual attendees with in-person attendees. Instructions for joining will be sent to all registrants. In-person attendees will meet in the Phoenix Metropolitan Area at a to-be-announced location. Due to room-capacity limitations, members of the public who wish to join in-person must inform IMLS by November 27, 2023.

FOR FURTHER INFORMATION CONTACT: Katherine Maas, Chief of Staff and Alternate Designated Federal Officer, Institute of Museum and Library Services, Suite 4000, 955 L'Enfant Plaza North SW, Washington, DC 20024; (202) 653–4798; *kmaas@imls.gov.*

SUPPLEMENTARY INFORMATION: The National Museum and Library Services Board is meeting pursuant to the National Museum and Library Service Act, 20 U.S.C. 9105a, and the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App.

The 48th Meeting of the National Museum and Library Services Board, which is open to the public, will convene at 9 a.m. Mountain Standard Time on December 13, 2023.

The agenda for the 48th Meeting of the National Museum and Library Services Board will be as follows:

I. Call to Order
II. Approval of Minutes of the 47th Meeting
III. Director's Welcome and Update
IV. Board Program—Guest Speaker
V. Tribal Engagement
VI. Literacy Convening and Future Planning
VII. Information Literacy Initiative

If you wish to attend the meeting, please inform IMLS as soon as possible, but no later than close of business on December 6, 2023, by contacting Katherine Maas at *kmaas@imls.gov.* Due to room-capacity limitations, members of the public who wish to join in-person must inform IMLS of this intention by November 27, 2023. Virtual meeting information will be sent to all public registrants. Please provide notice of any special needs or accommodations by November 27, 2023.

Dated: November 4, 2023.

Brianna Ingram,

Paralegal Specialist.

[FR Doc. 2023–24775 Filed 11–8–23; 8:45 am]

BILLING CODE 7036–01–P

NATIONAL SCIENCE FOUNDATION

Request for Information: National Ocean Biodiversity Strategy

AGENCY: National Science Foundation.

ACTION: Notice of request for information.

SUMMARY: The National Science Foundation, on behalf of the National Science and Technology Council Subcommittee on Ocean Science and Technology (SOST), requests input from all interested parties to inform the development of a National Ocean Biodiversity Strategy (Strategy), covering the genetic lineages, species, habitats, and ecosystems of United States (U.S.) ocean, coastal, and Great Lakes waters. The Strategy will strengthen the knowledge foundation and coordination on which federal agencies and other parties can align priorities and investments toward more cost-effective and successful solutions to the increasing challenges that require information on biodiversity and living resources. The Strategy will align research and monitoring on ocean life for safe and sustainable management, conservation, development, and climate solutions; and improve delivery of biodiversity information to support wise

management and the growing ocean economy. Through this request for information (RFI), SOST seeks input on the foundational elements of a Strategy for delivering needed knowledge and implementing effective stewardship of ocean life. Those elements will include actions federal agencies should take to collect, coordinate, and deliver information for policy, investment, development, and management, to better align ocean biodiversity investments and policy with societal needs for both use and protection of living resources, ensuring benefits to society across sectors and from local to international levels.

DATES: Responses are due by 11:59 p.m. eastern time on February 28, 2024. Responses received after this deadline may not be taken into consideration.

ADDRESSES: Interested individuals and organizations should submit comments electronically to *rfi-marinebiodiversity@nsf.gov* and include ''RFI: Public Comment on the National Ocean Biodiversity Strategy'' in the subject line of the message. Submissions should be machine readable in PDF or Word format and should not be locked or password protected. All submissions must be in English.

Instructions: Response to this RFI is voluntary. Each individual or organization is requested to submit only one response. Commenters can respond to one or many of the questions described below. Submissions are suggested to not exceed the equivalent of five (5) pages in 12 point or larger font. Submissions should clearly indicate which questions are being addressed. Responses should include the name of the person(s) or organization(s) filing the response. Responses containing references, studies, research, and other empirical data that are not widely published should include copies of or electronic links to the referenced materials. Responses containing profanity, vulgarity, threats, or other inappropriate language or content will not be considered.

SOST agencies may post responses to the RFI, without change, on their websites and may use the information received as they see fit. NSF therefore requests that no business proprietary information, copyrighted information, or personally identifiable information be submitted in response to the RFI. The U.S. Government will not pay for the responsible preparation or for the use of any information contained in the response.

FOR FURTHER INFORMATION CONTACT: For further information, please contact Gabrielle Canonico, National Oceanic and Atmospheric Administration, *gabrielle.canonico@noaa.gov,* telephone: (240) 533–9452, and/or Emmett Duffy, Smithsonian Institution, *DuffyE@si.edu*.

SUPPLEMENTARY INFORMATION:

Background

People are an integral part of nature and vice versa. Even in the continental heartland, our lives, livelihoods, health, and identities depend on the ocean's biodiversity, meaning the variety of life in all its aspects—species, genetic lineages, habitats, and associated ecosystems and interactions—from the sea surface to the deep ocean, the coasts, and the Great Lakes, and from microbes to whales. These living resources provide our food, clean air and water, a favorable climate, recreational and cultural benefits, and critical resources and economic opportunities. Indeed the U.S. ocean economy supports 2.4 million jobs across multiple sectors including fishing, tourism, shipping, and energy generation, which contributed $397 billion to the U.S. gross domestic product in 2019. Much of that economic engine is driven by living organisms.

Our natural heritage, and the ways of life that it supports, are in crisis. A comprehensive analysis reports that around 1 million species worldwide face extinction, many within decades, unless aggressive action is taken to reduce drivers of biodiversity loss in the near future. The biodiversity crisis is closely intertwined with the ongoing crises of climate change and inequity among people, and it is increasingly clear that these challenges must be approached together to reach lasting, just solutions that support human health, economies, national security, and other domestic and global challenges. To address them we need biological intelligence: trusted, accessible, and scientifically rigorous inventories and knowledge of ocean species and habitats, their interactions, and the ecosystem functions and services to people that they support.

That knowledge will come from long-term monitoring of biodiversity and associated environmental drivers and conditions, strategically located across the nation's expansive marine territory. These activities are critical to the ability of managers, rights holders, and resource users to make decisions that effectively steward uses of the ocean, track change in its vital signs, design effective climate solutions, and grow the ocean economy. But we are far from that goal. Information on ocean life and ecosystems is currently collected by many parties using a wide range of methods; the data are heterogeneous, generally not coordinated, and often not shared. Resulting information products are routinely created without engaging users 'on the ground' and with poor understanding of their needs for actionable information. This lack of coordination and interoperability wastes limited resources and harms our ability to effectively sustain multiple uses of a healthy ocean. As a result, relevant information about many aspects of ocean life and ecosystem services is unavailable or inaccessible.

The Strategy will address these challenges by facilitating, streamlining, and coordinating the delivery of knowledge on ocean life and ecosystems to develop ocean spaces sustainably, including advancing conservation plans and decision processes jointly by co-design with resource users and rights-holders. It will advance capacity to forecast changes in ocean life and the ecosystem services it provides by ensuring that data are comparable and shared across sectors (government, non-governmental organizations, private, academic) and regions (subnational, national, international), much as weather data are shared across international meteorological organizations to enable nowcasts and accurate forecasts that are widely used on a daily basis.

Scoping and Developing a National Ocean Biodiversity Strategy

The SOST is developing this Strategy because the linked climate, biodiversity, and equity crises have created an urgent need for biological information that can enable coordinated responses and solutions. Equally important, leveraging the exponentially growing quantity and variety of ocean biodiversity information for human well-being requires integration with biogeochemistry, physics, geology, and social and economic data to locate both people and the rest of nature in integrated knowledge systems that support effective, just, and sustainable development and conservation.

The U.S. has one of the largest exclusive economic zones in the world, with a comparable wealth of biodiversity and living resources. Collecting and delivering the necessary biodiversity knowledge at this national scale is an ambitious goal that requires rapid, large-scale, cross-sectoral advances in facilitating integration of communities, sectors, and information types. It must engage all Americans, including Tribal Nations, Indigenous communities, and local communities. Delivery of information needs to be in

forms tailored to decision contexts, informed by and readily understandable by those interested in using the information.

Rapidly advancing technology is one road to reaching that ambition. Emerging technologies now enable biomolecular classification of organisms, tracking of animal migration and behavior through tagging, acoustics, imaging, and remote sensing across previously impossible scales of geography and time. The resulting timely, accessible, and accurate information on ocean life is fundamental for our social and economic security at all levels of governance. It is also fundamental to maintain international leadership as needs for food, water, and other resources continue to grow.

Achieving these goals requires better coordinating data and information sharing and resulting actions among federal agencies, states, tribal communities, academic, and private sector initiatives. The Strategy aims to provide the critical science, data, and knowledge essential to guide long-term conservation based on best evidence, and to make it more accessible to support a collaborative and inclusive approach. The Strategy will identify information users and engage with them to understand what information they find useful, and in what forms. The Strategy will support consistent and reliable assembly and management of ocean biodiversity data that is necessary, but currently lacking, for ongoing federal activities, such as the first National Nature Assessment, Natural Capital Accounting efforts, the National Strategy for a Sustainable Ocean Economy, advancing Nature-Based Solutions, development of a National eDNA Strategy, and the Ocean Climate Action Plan, consistent with FAIR and CARE principles.

Developing and implementing the National Ocean Biodiversity Strategy will advance more cost-effective, strategic, nimble, and equitable management of the nation's living marine resources and cultural heritage. Importantly, the Strategy will support solutions to the intertwined equity crisis by engaging and supporting Indigenous Knowledge and prioritizing cross-sector user needs from local to national levels.

The Strategy also seeks to strengthen and increase visibility of U.S. leadership in global initiatives focused on solutions to the climate and biodiversity crises. Specifically, the High Level Panel for a Sustainable Ocean Economy acknowledged the pressing need for national contributions to a globally coordinated effort to collect information on ocean biodiversity and on extinction risk, and highlighted the need to support long-term biodiversity monitoring. Similarly, U.S. leadership of a number of programs and activities within the UN Decade of Ocean Science for Sustainable Development supports emerging communities of practice and the development of harmonized, standards-based approaches to address this need directly.

Themes and Questions To Inform the Development of the Strategy

Respondents may provide information for one or as many topics below as they choose. Submissions should clearly indicate which questions are being addressed. The Strategy will be developed by an interagency working group under SOST that is co-led by the National Oceanic and Atmospheric Administration, the National Aeronautics and Space Administration, and the Bureau of Ocean Energy Management, in partnership with the Smithsonian Institution and other federal agencies. The working group seeks input from Tribal Nations, local, State, federal and Territorial governments, the private sector, academia, non-governmental organizations, a wide range of stakeholders, and the public on high-level goals and how to achieve them in the following areas:

Coordination and Priority Setting

- What are the most pressing topics and considerations for the National Ocean Biodiversity Strategy to address?
- What actions can federal agencies take to facilitate the harmonization of ocean biodiversity investments and policy to ensure benefits across all sectors?

Science, Technology, and Information

- What are the priority needs and most promising approaches in science and technology to provide useful information on ocean biodiversity (species, genetic lineages, habitats, ecosystems) and the ecosystem processes and services they support?
- How can we best align the efforts of knowledge holders with the needs of knowledge users?
- How can ocean biodiversity data be made more usable and available? Which existing mechanisms or repositories could be leveraged?

Capacity Building and Community Engagement

- How could public and private partnerships be developed or enhanced to explore and characterize ocean life, which existing partnerships could be leveraged, and how might opportunities for participation by diverse parties in such partnerships be maximized?
- What are the key needs for training and education to improve broad knowledge and stewardship of ocean life?
- How could the public be engaged in developing and implementing improved understanding and stewardship of ocean life?
- Is there anything else you would like to be considered in the development of the National Ocean Biodiversity Strategy?

Dated: November 6, 2023.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2023–24839 Filed 11–8–23; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Computer and Information Science and Engineering; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Computer and Information Science and Engineering (#1115) (Hybrid).

Date and Time: December 6, 2023; 9:30 a.m.–5:00 p.m. (Eastern); December 7, 2023; 9:30 a.m.–12:30 p.m. (Eastern).

Place: NSF, 2415 Eisenhower Avenue, Room E3450, Alexandria, VA 22314 (Hybrid).

To register for in-person attendance or for virtual meeting attendees to receive the Zoom link, please send your request to the following email: *cmessam@nsf.gov.*

Type of Meeting: Open.

Contact Persons: Chantoye Messam, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone:703–292–8900; email: *cmessam@nsf.gov.*

Purpose of Meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to Computer and Information Science and Engineering programs and activities.

Agenda

- NSF and CISE update
- Report out from the Committee of Visitors for Computing and Communication Foundations, Computer and Network Systems, and Information and Intelligent Systems Divisions

- Computing and Sustainability
- Broadening Participation in Computing

Dated: November 6, 2023.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2023–24778 Filed 11–8–23; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Senior Executive Service (SES) Performance Review Board

AGENCY: National Transportation Safety Board.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the National Transportation Safety Board, Performance Review Board (PRB).

FOR FURTHER INFORMATION CONTACT: Anh Bolles, Executive Resources Manager, Human Capital Management and Training, National Transportation Safety Board, 490 L'Enfant Plaza SW, Washington, DC 20594–0001, (202) 314–6355.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of title 5, United States Code requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more SES Performance Review Boards (PRB). The board reviews and evaluates the initial appraisal of a senior executive's performance by the supervisor and considers recommendations to the appointing authority regarding the performance of the senior executive.

The following have been designated as members of the 2022 Performance Review Board of the National Transportation Safety Board (NTSB):

Ms. Veronica Marshall, Chief Human Capital Officer, Office of Human Capital Management and Training, National Transportation Safety Board, PRB Chair.

Mr. Morgan Turrell, Director, Office of Marine Safety, National Transportation Safety Board.

Mr. Akbar Sultan, Director, Airspace Operations and Safety Program, National Aeronautics and Space Administration.

Ms. Kathryn Catania, Deputy Director, Office of Safety Recommendations and Communications, National Transportation Safety Board (alternate member to review the evaluations of SES members serving on this PRB).

Candi R. Bing,

Federal Register Liaison.

[FR Doc. 2023–24825 Filed 11–8–23; 8:45 am]

BILLING CODE P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings

TIME AND DATE: 4:00 p.m., Wednesday, November 29, 2023.

PLACE: 1255 Union Street NW, Suite 500, Washington, DC 20002.

STATUS: Part of this meeting will be open to the public. The rest of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Audit Committee Board of Directors meeting.

The Interim General Counsel of the Corporation has certified that in her opinion, one or more of the exemptions set forth in the Government in the Sunshine Act, 5 U.S.C. 552b(c)(2) permit the closure of the following portion(s) of this meeting:

- Executive (Closed) Session

Agenda

I. Call to Order

II. Sunshine Act Approval to Meet in Executive (Closed) Session

III. Executive Session: GAO Workplan Update

IV. Executive Session: Chief Audit Executive Report

V. Action Item: Deferred Internal Audit Projects from FY2023 Internal Audit Plan

VI. Action Item: FY2024 Internal Audit Plan and Risk Assessment

VII. Action Item: Removal and Replacement of Conformance Language

VIII. Discussion Item: Network Watchlist Report

IX. Discussion Item: Internal Audit Status Reports

a. Internal Audit Performance Scorecard

b. Implementation of Internal Audit Recommendations

c. Officer's Report

d. Quality Assurance Improvement Policy

Portions Open to the Public: Everything except the Executive (Closed) Session.

Portions Closed to the Public: Executive (Closed) Session.

CONTACT PERSON FOR MORE INFORMATION: Jenna Sylvester, Paralegal, (202) 568–2560; *jsylvester@nw.org.*

Jenna Sylvester,

Paralegal.

[FR Doc. 2023–24975 Filed 11–7–23; 4:15 pm]

BILLING CODE P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 3, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 95 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–39, CP2024–39.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2023–24730 Filed 11–8–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby

gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 2, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 91 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–35, CP2024–35.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2023–24726 Filed 11–8–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 3, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 94 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–38, CP2024–38.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2023–24729 Filed 11–8–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 3, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 96 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–40, CP2024–40.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2023–24750 Filed 11–8–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 31, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 86 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–30, CP2024–30.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2023–24721 Filed 11–8–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 2, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 89 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–33, CP2024–33.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2023–24724 Filed 11–8–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Sean C. Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on October 30, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage® Contract 12 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–29, CP2024–29.

Sean C. Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2023–24720 Filed 11–8–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 1, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 88 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–32, CP2024–32.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2023–24723 Filed 11–8–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 2, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 90 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–34, CP2024–34.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2023–24725 Filed 11–8–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 2, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 93 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–37, CP2024–37.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2023–24728 Filed 11–8–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 2, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 92 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–36, CP2024–36.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2023–24727 Filed 11–8–23; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and USPS Ground Advantage® Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of required notice:* November 9, 2023.

FOR FURTHER INFORMATION CONTACT: Sean Robinson, 202–268–8405.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on November 1, 2023, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & USPS Ground Advantage® Contract 87 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2024–31, CP2024–31.

Sean Robinson,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2023–24722 Filed 11–8–23; 8:45 am]

BILLING CODE 7710–12–P

RAILROAD RETIREMENT BOARD

2024 Railroad Experience Rating Proclamations, Monthly Compensation Base and Other Determinations

AGENCY: Railroad Retirement Board.

ACTION: Notice.

SUMMARY: As required by the Railroad Unemployment Insurance Act (Act), the Railroad Retirement Board (RRB) hereby publishes its notice for calendar year 2024 of account balances, factors used in calculating experience-based employer contribution rates, computation of amounts related to the

monthly compensation base, and the maximum daily benefit rate for days of unemployment or sickness.

DATES: The balance in notice (1) and the determinations made in notices (3) through (7) are based on data as of June 30, 2023. The balance in notice (2) is based on data as of September 30, 2023. The determinations made in notices (5) through (7) apply to the calculation, under section 8(a)(1)(C) of the Act, of employer contribution rates for 2024. The determinations made in notices (8) through (11) are effective January 1, 2024. The determination made in notice (12) is effective for registration periods beginning after June 30, 2024.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 N Rush Street, Chicago, Illinois 60611–1275.

FOR FURTHER INFORMATION CONTACT: Sheryl Enders, Bureau of the Actuary and Research, Railroad Retirement Board, 844 N Rush Street, Chicago, Illinois 60611–1275, telephone (312) 751–4729.

SUPPLEMENTARY INFORMATION: The RRB is required by section 8(c)(1) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(1)) as amended by Public Law 100–647, to proclaim by October 15 of each year certain system-wide factors used in calculating experience-based employer contribution rates for the following year. The RRB is further required by section 8(c)(2) of the Act (45 U.S.C. 358(c)(2)) to publish the amounts so determined and proclaimed. The RRB is required by section 12(r)(3) of the Act (45 U.S.C. 362(r)(3)) to publish by December 11, 2023, the computation of the calendar year 2024 monthly compensation base (section 1(i) of the Act) and amounts described in sections 1(k), 2(c), 3 and 4(a–2)(i)(A) of the Act which are related to changes in the monthly compensation base. Also, the RRB is required to publish, by June 11, 2024, the maximum daily benefit rate under section 2(a)(3) of the Act for days of unemployment and days of sickness in registration periods beginning after June 30, 2024.

Pursuant to section 8(c)(2) and section 12(r)(3) of the Railroad Unemployment Insurance Act (Act) (45 U.S.C. 358(c)(2) and 45 U.S.C. 362(r)(3), respectively), the Board gives notice of the following:

1. The accrual balance of the Railroad Unemployment Insurance (RUI) Account, as of June 30, 2023, is $363,050,002.39;

2. The September 30, 2023, balance of any new loans to the RUI Account, including accrued interest, is zero;

3. The system compensation base is $4,152,337,222.44 as of June 30, 2023;

4. The cumulative system unallocated charge balance is ($476,329,911.37) as of June 30, 2023;

5. The pooled credit ratio for calendar year 2024 is zero;

6. The pooled charged ratio for calendar year 2024 is zero;

7. The surcharge rate for calendar year 2024 is zero;

8. The monthly compensation base under section 1(i) of the Act is $1,985 for months in calendar year 2024;

9. The amount described in sections 1(k) and 3 of the Act as ''2.5 times the monthly compensation base'' is $4,962.50 for base year (calendar year) 2024;

10. The amount described in section 4(a–2)(i)(A) of the Act as ''2.5 times the monthly compensation base'' is $4,962.50 with respect to disqualifications ending in calendar year 2024;

11. The amount described in section 2(c) of the Act as ''an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600'' is $2,564 for months in calendar year 2024;

12. The maximum daily benefit rate under section 2(a)(3) of the Act is $94 with respect to days of unemployment and days of sickness in registration periods beginning after June 30, 2024.

Surcharge Rate

A surcharge is added in the calculation of each employer's contribution rate, subject to the applicable maximum rate, for a calendar year whenever the balance to the credit of the RUI Account on the preceding June 30 is less than the greater of $100 million or the amount that bears the same ratio to $100 million as the system compensation base for that June 30 bears to the system compensation base as of June 30, 1991. If the RUI Account balance is less than $100 million (as indexed), but at least $50 million (as indexed), the surcharge will be 1.5 percent. If the RUI Account balance is less than $50 million (as indexed), but greater than zero, the surcharge will be 2.5 percent. The maximum surcharge of 3.5 percent applies if the RUI Account balance is less than zero.

The ratio of the June 30, 2023 system compensation base of $4,152,337,222.44 to the June 30, 1991 system compensation base of $2,763,287,237.04 is 1.50268027. Multiplying 1.50268027 by $100 million yields $150,268,027.00. Multiplying $50 million by 1.50268027 produces $75,134,013.50. The Account balance on June 30, 2023, was $363,050,002.39. Accordingly, the surcharge rate for calendar year 2024 is zero.

Monthly Compensation Base

For years after 1988, section 1(i) of the Act contains a formula for determining the monthly compensation base. Under the prescribed formula, the monthly compensation base increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The monthly compensation base for months in calendar year 2024 shall be equal to the greater of (a) $600 or (b) $600 [1 + {(A − 37,800)/56,700}], where A equals the amount of the applicable base with respect to tier 1 taxes for 2024 under section 3231(e)(2) of the Internal Revenue Code of 1986. Section 1(i) further provides that if the amount so determined is not a multiple of $5, it shall be rounded to the nearest multiple of $5.

Using the calendar year 2024 tier 1 tax base of $168,600 for A above produces the amount of $1,984.13, which must then be rounded to $1,985. Accordingly, the monthly compensation base is determined to be $1,985 for months in calendar year 2024.

Amounts Related to Changes in Monthly Compensation Base

For years after 1988, sections 1(k), 3, 4(a–2)(i)(A) and 2(c) of the Act contain formulas for determining amounts related to the monthly compensation base.

Under section 1(k), remuneration earned from employment covered under the Act cannot be considered subsidiary remuneration if the employee's base year compensation is less than 2.5 times the monthly compensation base for months in such base year. Under section 3, an employee shall be a ''qualified employee'' if his/her base year compensation is not less than 2.5 times the monthly compensation base for months in such base year. Under section 4(a–2)(i)(A), an employee who leaves work voluntarily without good cause is disqualified from receiving unemployment benefits until he has been paid compensation of not less than 2.5 times the monthly compensation base for months in the calendar year in which the disqualification ends.

Multiplying 2.5 by the calendar year 2024 monthly compensation base of $1,985 produces $4,962.50. Accordingly, the amount determined under sections 1(k), 3 and 4(a–2)(i)(A) is $4,962.50 for calendar year 2024.

Under section 2(c), the maximum amount of normal benefits paid for days of unemployment within a benefit year and the maximum amount of normal

benefits paid for days of sickness within a benefit year shall not exceed an employee's compensation in the base year. In determining an employee's base year compensation, any money remuneration in a month not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year bears to $600 shall be taken into account.

The calendar year 2024 monthly compensation base is $1,985. The ratio of $1,985 to $600 is 3.30833333. Multiplying 3.30833333 by $775 produces $2,564. Accordingly, the amount determined under section 2(c) is $2,564 for months in calendar year 2024.

Maximum Daily Benefit Rate

Section 2(a)(3) contains a formula for determining the maximum daily benefit rate for registration periods beginning after June 30, 1989, and after each June 30 thereafter. Legislation enacted on October 9, 1996, revised the formula for indexing maximum daily benefit rates. Under the prescribed formula, the maximum daily benefit rate increases by approximately two-thirds of the cumulative growth in average national wages since 1984. The maximum daily benefit rate for registration periods beginning after June 30, 2024, shall be equal to 5 percent of the monthly compensation base for the base year immediately preceding the beginning of the benefit year. Section 2(a)(3) further provides that if the amount so computed is not a multiple of $1, it shall be rounded down to the nearest multiple of $1.

The calendar year 2023 monthly compensation base is $1,895. Multiplying $1,895 by 0.05 yields $94.75. Accordingly, the maximum daily benefit rate for days of unemployment and days of sickness beginning in registration periods after June 30, 2024, is determined to be $94.

By Authority of the Board.

Stephanie Hillyard,

Secretary to the Board.

[FR Doc. 2023–24786 Filed 11–8–23; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98853; File No. SR–NYSEAMER–2023–54]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change Amending Rule 935NY

November 3, 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 October 27, 2023, NYSE American LLC (''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 935NY (Order Exposure Requirements) to include reference to Rule 971.1NYP (Single-Leg Electronic Cross Transactions) to exempt orders submitted to the Customer Best Execution (''CUBE'') Auction on Pillar from the order exposure requirements. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 935NY (Order Exposure Requirements) to include reference to the recently-adopted Rule 971.1NYP (Single-Leg Electronic Cross Transactions) to exempt orders submitted to the CUBE Auction on Pillar from the order exposure requirements.[4]

Rule 971.1NY describes the CUBE Auction, which is an electronic crossing mechanism for single-leg orders with a price improvement auction on the Exchange (the ''CUBE'').[5] Agency orders (or ''CUBE Orders) submitted to the CUBE are exempt from the one-second order exposure requirement set forth in Rule 935NY.[6]

In connection with the Exchange's migration to the Pillar trading platform, which began on October 23, 2023, the Exchange adopted Rule 971.1NYP to describe the operation of the CUBE on Pillar (the ''Pillar CUBE'').[7] Pillar CUBE offers certain enhancements to the existing CUBE Auction but the core functionality of Pillar CUBE is substantively identical to the existing CUBE Auction.[8]

[4] *See* Securities Exchange Act Release No. 97938 (July 18, 2023), 88 FR 47536 (July 24, 2023) (NYSEAmer–2023–35) (proposing, on an immediately effective basis, new Pillar Rule 971.1NYP (Single-Leg Electronic Cross Transactions), which will govern single-leg CUBE Auctions on Pillar) (the ''Pillar Single-Leg CUBE Filing''). Beginning on October 23, 2023, the Exchange implemented Rule 971.1NYP in connection with the migration to the Exchange's Pillar trading platform pursuant to the scheduled rollout of underlying symbols as announced by Trader Update. *See e.g.,* Trader Update, October 20, 2023 (announcing that Pillar Migration Tranche 1 will include underlying symbol Range: H, I), *available here: https://www.nyse.com/trader-update/history#110000748106;* and Trader Update, January 30, 2023 (announcing Pillar Migration Launch date of October 23, 2023, for the Exchange), *available here: https://www.nyse.com/trader-update/history#110000530919* (the ''Pillar Trader Updates''). The Exchange notes that, other than the rule change proposed herein, all Pillar-related rules (*i.e.,* with a ''P'' modifier) have either been approved or are currently operative and, beginning on October 23, 2023, will apply to options traded on underlying symbols that have been migrated to Pillar.

[5] *See* generally Rule 971.1NY(Single-Leg Electronic Cross Transactions).

[6] Rule 935NY requires, among other things, that a User's agency orders be exposed for at least one (1) second before such orders may be executed against the User's principal orders, unless such agency order is afforded an exemption pursuant to Rule 935NY(iii). *See* Rule 935NY(iii).

[7] *See* generally Rule 971.1NYP(Single-Leg Electronic Cross Transactions).

[8] *See supra* note 4, Pillar Single-Leg CUBE Filing. 88 FR 47536, at 47538 (stating that on Pillar, per

Accordingly, the Exchange believes that it would be consistent with the Act to exempt orders submitted to Pillar CUBE from the one-second order exposure requirement.[9] This proposed handling would result in consistent treatment of CUBE Orders whether submitted to the existing CUBE or to Pillar CUBE. Like the existing CUBE Auction, Pillar CUBE provides ATP Holders a minimum of 100 milliseconds to respond to CUBE Orders, which should promote timely executions, while ensuring adequate exposure of the CUBE Order seeking price improvement.[10] Further, consistent with Rule 935NY, Commentary .01, the ATP Holders that submit CUBE Orders—whether to the existing CUBE Auction or to Pillar CUBE—would do so only when there is a genuine intention to execute a bona fide transaction.[11] Furthermore, as with the existing CUBE Auction, any User on the Exchange can respond to a Pillar CUBE which is the same as the existing CUBE Auction.[12]

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[13] in general, and furthers the objectives of Section 6(b)(5),[14] 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 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.

The Exchange believes that adding a cross-reference to newly-adopted Rule 971.1NYP and thus extending the exe4mption from the one-second order exposure requirement set forth in Rule 935NY to include the Pillar CUBE would remove impediments to and perfect the mechanism of a free and open market and a national market system. Pillar CUBE was adopted in connection with the Exchange's migration to the Pillar trading platform and offers features that are substantively identical to the existing CUBE Auction. Accordingly, the Exchange believes that it would promote just and equitable principles of trade to exempt orders submitted to Pillar CUBE from the one-second order exposure requirement, particularly because this would result in consistent treatment of CUBE Orders whether submitted to the existing CUBE or to Pillar CUBE. Like the existing CUBE Auction, Pillar CUBE provides ATP Holders a minimum of 100 milliseconds to respond to CUBE Orders, which should promote timely executions, while ensuring adequate exposure of Pillar CUBE Orders.[15] Further, consistent with Rule 935NY, Commentary .01, the ATP Holders submitting CUBE Orders—to the existing CUBE or to Pillar CUBE—would do so only when there is a genuine intention to execute a bona fide transaction.[16]

In addition, the proposed rule change would promote clarity and transparency of which rules would be eligible for the exception specified in Rule 935NY. Finally, adding the reference to Pillar CUBE would promote internal consistency in Exchange rules and would ensure that CUBE Orders submitted to Pillar CUBE are afforded the same treatment as CUBE Orders submitted to the existing CUBE.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that its proposed rule change will impose any burden on intra-market competition because any User on the Exchange may utilize Pillar CUBE and all orders submitted to Pillar CUBE would be treated in the same manner for purposes of Rule 935NY (*i.e.,* such orders would be exempt from the one-second order exposure requirement).

The Exchange does not believe that its proposed rule change will impose any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because other options exchanges are free to adopt (if they haven't already done so) electronic crossing mechanisms with price improvement auctions and to seek to have orders submitted to such mechanisms exempt from order exposure requirements.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange states that waiver of the operative delay would allow the Exchange to update Exchange Rule 935NY without delay to include the Pillar CUBE, in addition to the existing CUBE Auction, as an exception to the one-second exposure requirement in

Rule 971.1NYP, ''the Exchange is not proposing to change the core functionality of CUBE Auctions'').

[9] *See* proposed Rule 935NY(iii) (excluding from the order exposure requirement agency orders submitted to ''the Customer Best Execution Auction ('CUBE Auction') pursuant to Rules 971.1NY, 971.1NYP, or 971.2NY'') (emphasis added).

[10] *See* Rule 971.1NYP(c)(1)(B) (regarding a Response Time Interval of no less than 100 milliseconds).

[11] *See* Rule 935NY, Commentary .01 (''Rule 935NY prevents a User from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the User was already bidding or offering on the book'').

[12] *See* Rule 971.1NY(c)(2)(C) (providing that ''[a]ny ATP Holder may respond to the RFR, provided such response is properly marked specifying price, size and side of the market ('RFR Response')]''; Rule 971.1NY(c)(1)(C) (same).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* Rule 971.1NYP(c)(1)(B) (regarding a Response Time Interval of no less than 100 milliseconds).

[16] *See* Rule 935NY, Commentary .01 (''Rule 935NY prevents a User from executing agency orders to increase its economic gain from trading against the order without first giving other trading interest on the Exchange an opportunity to either trade with the agency order or to trade at the execution price when the User was already bidding or offering on the book'').

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange 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.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

Exchange Rule 935NY. The Exchange states that the Pillar CUBE Auction offers features that are substantively identical to the Exchange's existing CUBE Auction.

The Commission finds that it is consistent with the protection of investors and the public interest to waive the 30-day operative delay. Exchange Rule 935NY currently allows Users to utilize the CUBE Auction to satisfy the requirement in Exchange Rule 935NY that a User expose an agency order on the Exchange for at least one second before trading with the agency order as principal. The proposal would amend Exchange Rule 935NY to allow Users to utilize the Pillar CUBE Auction in Exchange Rule 971.1NYP for the same purpose. As discussed above, the Exchange states that the Pillar CUBE Auction offers features that are substantively identical to the existing CUBE Auction. The Commission believes that the proposal does not raise new or novel regulatory issues and that waiver of the operative delay will allow the Exchange to immediately provide consistent treatment, for purposes of Exchange Rule 935NY, of agency orders submitted to the CUBE and the Pillar CUBE Auctions. Accordingly, the Commission waives the 30-day operative delay and designates the proposal operative upon filing.[21]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEAMER–2023–54 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–2023–54. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEAMER–2023–54 and should be submitted on or before November 30, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–24760 Filed 11–8–23; 8:45 am]

BILLING CODE 8011–01–P

[21] 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).

[22] 17 CFR 200.30–3(a)(12), (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98857; File No. SR–NYSEARCA–2023–73]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.37–E

November 3, 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 October 25, 2023, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.37–E to specify the Exchange's source of data feeds from MIAX PEARL LLC (''MIAX PEARL'') for purposes of order handling, order execution, order routing, and regulatory compliance. 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 update and amend the use of data feeds table in

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Rule 7.37–E(d), which sets forth on a market-by-market basis the specific securities information processor (''SIP'') and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 7.37–E(d) to specify that, with respect to MIAX PEARL, the Exchange will receive a MIAX PEARL direct feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance, and will use the SIP Data Feed as its secondary source for data from MIAX PEARL.

The Exchange proposes to make this change operative in the fourth quarter of 2023, and, in any event, before December 31, 2023.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5),[5] 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 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 that the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes its proposal to update the table in Rule 7.37–E(d) to include the MIAX PEARL direct feed will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will enhance competition because providing the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance would enhance transparency and enable investors to better assess the quality of the Exchange's execution and routing services. The Exchange also believes the proposal would enhance competition because it would potentially enhance the performance of its order handling and execution of orders in equity securities by receiving market data directly from MIAX PEARL. Finally, the proposed rule change would not impact competition between market participants because it will affect all market participants equally.

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[6] and Rule 19b–4(f)(6) thereunder.[7] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)[8] thereunder.

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

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 under Section 19(b)(2)(B)[9] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSEARCA–2023–73 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–2023–73. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10

[9] 15 U.S.C. 78s(b)(2)(B).

a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEARCA–2023–73 and should be submitted on or before November 30, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–24763 Filed 11–8–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98858; File No. SR–NYSENAT–2023–23]

Self-Regulatory Organizations; NYSE National, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.37

November 3, 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 October 25, 2023, NYSE National, Inc. (''NYSE National'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.37 to specify the Exchange's source of data feeds from MIAX PEARL LLC (''MIAX PEARL'') for purposes of order handling, order execution, order routing, and regulatory compliance. 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 update and amend the use of data feeds table in Rule 7.37(d), which sets forth on a market-by-market basis the specific securities information processor (''SIP'') and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 7.37(d) to specify that, with respect to MIAX PEARL, the Exchange will receive a MIAX PEARL direct feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance, and will use the SIP Data Feed as its secondary source for data from MIAX PEARL.

The Exchange proposes to make this change operative in the fourth quarter of 2023, and, in any event, before December 31, 2023.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5),[5] 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 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 that the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes its proposal to update the table in Rule 7.37(d) to include the MIAX PEARL direct feed will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will enhance competition because providing the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance would enhance transparency and enable investors to better assess the quality of the Exchange's execution and routing services. The Exchange also believes the proposal would enhance competition because it would potentially enhance the performance of its order handling and execution of orders in equity securities by receiving market data directly from MIAX PEARL. Finally, the proposed rule change would not impact competition between market participants because it will affect all market participants equally.

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

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

19(b)(3)(A)(iii) of the Act[6] and Rule 19b-4(f)(6) thereunder.[7] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)[8] 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 under Section 19(b)(2)(B)[9] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–NYSENAT–2023–23 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSENAT–2023–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSENAT–2023–23 and should be submitted on or before November 30, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–24764 Filed 11–8–23; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 15 U.S.C. 78s(b)(2)(B).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98855; File No. SR–NYSE–2023–38]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 7.37

November 3, 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 October 25, 2023, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.37 to specify the Exchange's source of data feeds from MIAX PEARL, LLC (''MIAX PEARL'') for purposes of order handling, order execution, order routing, and regulatory compliance. 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 update and amend the use of data feeds table in Rule 7.37(e), which sets forth on a market-by-market basis the specific securities information processor (''SIP'') and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 7.37(e) to specify that, with respect to MIAX PEARL, the Exchange will receive a MIAX PEARL direct feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance, and will use the SIP Data Feed as its secondary source for data from MIAX PEARL.

The Exchange proposes to make this change operative in the fourth quarter of 2023, and, in any event, before December 31, 2023.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5),[5] 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 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 that the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes its proposal to update the table in Rule 7.37(e) to include the MIAX PEARL direct feed will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will enhance competition because providing the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance would enhance transparency and enable investors to better assess the quality of the Exchange's execution and routing services. The Exchange also believes the proposal would enhance competition because it would potentially enhance the performance of its order handling and execution of orders in equity securities by receiving market data directly from MIAX PEARL. Finally, the proposed rule change would not impact competition between market participants because it will affect all market participants equally.

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[6] and Rule 19b–4(f)(6) thereunder.[7] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)[8] 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 under Section 19(b)(2)(B)[9] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–NYSE–2023–38 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–NYSE–2023–38. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSE–2023–38 and should be submitted on or before November 30, 2023.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–24761 Filed 11–8–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98856; File No. SR–NYSEAMER–2023–52]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Rule 7.37E

November 3, 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 October 25, 2023, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7.37E to specify the Exchange's source of data feeds from MIAX PEARL, LLC (''MIAX PEARL'') for purposes of order handling, order execution, order routing, and regulatory compliance. 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 update and amend the use of data feeds table in Rule 7.37E(d), which sets forth on a market-by-market basis the specific securities information processor (''SIP'') and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks related to each of those functions. Specifically, the Exchange proposes to amend the table in Rule 7.37E(d) to specify that, with respect to MIAX PEARL, the Exchange will receive a MIAX PEARL direct feed as its primary source of data for order handling, order execution, order routing, and regulatory compliance, and will use the SIP Data Feed as its secondary source for data from MIAX PEARL.

The Exchange proposes to make this change operative in the fourth quarter of 2023, and, in any event, before December 31, 2023.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Section 6(b)(5),[5] 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 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 that the proposed rule change is consistent with the Section 6(b)(5) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes its proposal to update the table in Rule 7.37E(d) to include the MIAX PEARL direct feed will ensure that the Rule correctly identifies and publicly states on a market-by-market basis all of the specific SIP and proprietary data feeds that the Exchange utilizes for the handling, execution, and routing of orders, and for performing the regulatory compliance checks for each of those functions. The proposed rule change also removes impediments to and perfects the mechanism of a free and open market and protects investors and the public interest by providing additional specificity, clarity, and transparency in the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Rather, the Exchange believes that the proposal will enhance competition because providing the public and market participants with up-to-date information about the data feeds the Exchange will use for the handling, execution, and routing of orders, as well as for regulatory compliance would enhance transparency and enable investors to better assess the quality of the Exchange's execution and routing services. The Exchange also believes the proposal would enhance competition because it would potentially enhance the performance of its order handling and execution of orders in equity securities by receiving market data directly from MIAX PEARL. Finally, the proposed rule change would not impact competition between market participants because it will affect all market participants equally.

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[6] and Rule 19b–4(f)(6) thereunder.[7] Because the 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 prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(iii).

[7] 17 CFR 240.19b–4(f)(6).

effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)[8] 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 under Section 19(b)(2)(B)[9] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include file number SR–NYSEAMER–2023–52 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–2023–52. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–NYSEAMER–2023–52 and should be submitted on or before November 30, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–24757 Filed 11–8–23; 8:45 am]

BILLING CODE 8011–01–P

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 15 U.S.C. 78s(b)(2)(B).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98850; File No. SR–FINRA–2023–014]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Establish a Short-Form Membership Application Process and Partial Fee Waiver for Certain Firms Applying Due to Amended Exchange Act Rule 15b9–1

November 3, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 30, 2023, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to adopt (1) FINRA Interpretive Material 1013–3 (''IM–1013–3'') that would set forth a short-form membership application process for firms that apply for FINRA membership due to the amendments to Exchange Act Rule 15b9–1,[4] adopted by the Commission on August 23, 2023;[5] and (2) FINRA Interpretive Material Section 4(e) of Schedule A to the FINRA By-Laws (''IM-Section 4(e)'') that would provide a partial waiver of the new membership application fee to those firms that are eligible to apply for FINRA membership pursuant to proposed IM–1013–3. Proposed IM–1013–3 and IM-Section 4(e) would be available only to SEC-registered non-FINRA member firms that apply for FINRA membership due to the Commission's Exchange Act Rule 15b9–1 amendments and, as of August 23, 2023, have been a member of a national securities exchange with which FINRA has had a regulatory service agreement (''RSA'') for the 12-month period prior to August 23, 2023 (''Eligible Firms'').

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[4] 17 CFR 240.15b9–1.

[5] *See* Securities Exchange Act Release No. 98202 (August 23, 2023), 88 FR 61850 (September 7, 2023).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 23, 2023, the Commission adopted amendments to Exchange Act Rule 15b9–1 that narrowed the exemption from membership in a registered national securities association (''Association'') for certain SEC-registered brokers or dealers that effect securities transactions other than on a national securities exchange of which they are a member.[6] Under amended Exchange Act Rule 15b9–1, a broker or dealer that effects securities transactions other than on a national securities exchange of which it is a member is exempt from Association membership if such broker or dealer (1) is a member of a national securities exchange; (2) carries no customer accounts; and (3) such transactions result solely from orders that are routed by a national securities exchange of which it is a member to comply with order protection regulatory requirements, or are solely for the purpose of executing the stock leg of a stock-option order.[7] Due to the amendments, certain existing SEC-registered brokers or dealers will no longer qualify for the exemption from Association membership and must become FINRA members.[8] The Commission has announced an effective date of November 6, 2023, and a compliance date of September 6, 2024.

Application Review Process for New FINRA Membership Under FINRA Rule 1013 (New Member Application and Interview) and Application Filing Fee

An entity seeking to become a new FINRA member firm must undergo an application process that typically begins by filing Form NMA (Application for New Membership) with FINRA in accordance with Rule 1013.[9] FINRA Rule 1014 (Department Decision) provides that after considering the application, a membership interview, other information and documents provided by the applicant or obtained by FINRA, and the public interest and protection of investors, FINRA must determine whether the applicant meets the standards for admission.[10] Under Rule 1014, FINRA must render a decision on a new membership application within 180 days after the application is filed (or such later date as FINRA and the applicant have agreed in writing).[11] When the applicant submits Form NMA, it must also submit the appropriate filing fee pursuant to Section 4(e) of Schedule A to the FINRA By-Laws. As described below, FINRA is proposing to establish a short-form membership application process for Eligible Firms and provide for a partial waiver of the new membership application fee.

Short-Form Membership Application Process

In lieu of completing Form NMA and the other requirements under Rule 1013, including the new membership interview, proposed IM–1013–3 would allow an Eligible Firm to undergo a new membership application process that would permit completing a short-form application. An Eligible Firm would otherwise remain subject to all applicable FINRA rules, including the provisions of the FINRA Rule 1000 Series (Membership Application and Associated Person Registration).[12]

FINRA recognizes that Eligible Firms have already undergone a membership application and review process with at least one national securities exchange to determine whether these firms were fit for membership. In addition, FINRA currently has substantial information about and experience with these firms and therefore is familiar with their businesses and associated risks (*e.g.,* operational risks, market risk, market integrity risk) by virtue of the regulatory services FINRA provides pursuant to the RSAs it has with the national securities exchanges of which Eligible Firms are members.[13] For example, FINRA already conducts exams of Eligible Firms pursuant to an RSA, including trading-related exams for most of these firms. FINRA also provides, among other regulatory services, cross-market surveillance, investigations and disciplinary services pursuant to those RSAs. Some of the Eligible Firms are also affiliates of member firms. For these reasons, FINRA believes an abbreviated, short-form membership application process is appropriate for the Eligible Firms and that, in most cases, FINRA can effectively determine whether an Eligible Firm meets the membership standards in Rule 1014 without requiring submission of a Form NMA, provision of additional information or engaging in a formal interview with the firm.

Nonetheless, depending on particular facts and circumstances, FINRA may find it necessary to obtain additional information to evaluate an Eligible Firm for membership. To that end, proposed IM–1013–3 would provide that FINRA, in the public interest and for the protection of investors, may require an Eligible Firm to provide FINRA with additional information or documents or meet any other requirement pursuant to Rule 1013, or to apply for membership pursuant to the full application and interview process under Rule 1013.[14] In addition, proposed IM–1013–3 would provide that if an Eligible Firm's application for FINRA membership seeks to materially expand or change the firm's business operations, such firm would be required to apply for new FINRA membership pursuant to the full application and interview process under Rule 1013, including completing Form NMA and submitting the appropriate application fee set forth in Section 4(e) of Schedule A to the FINRA By-Laws.[15]

Proposed IM–1013–3 would also require an Eligible Firm to submit the

[6] *See supra* note 5.

[7] 17 CFR 240.15b9–1.

[8] FINRA is currently the only registered national securities association.

[9] A firm seeking new FINRA membership must also, among other requirements, provide FINRA with the documents and information outlined in Rule 1013(a)(1)(B) through (R).

[10] *See generally* Rule 1014(a).

[11] Pursuant to FINRA Rule 1015 (Review by National Adjudicatory Council), an applicant may file a written request for review of FINRA's decision with the National Adjudicatory Council.

[12] While FINRA typically has 180 days after a firm submits a new membership application to issue a decision, absent any factors that might prompt a request for additional information or for a full membership application, FINRA anticipates that it can process most applications for Eligible Firms and issue a decision in line with, or in many cases more quickly than, FINRA's current Fast-Track Review process timeframe for eligible applications. Under the Fast-Track Review process, FINRA aims to process eligible full membership applications within 100 days. *See infra* note 14.

[13] FINRA already has access to most, if not all, documents and information that would be required of these Eligible Firms during the membership application process. For example, by virtue of the regulatory services FINRA provides pursuant to the RSAs and related Central Registration Depository (''Web CRD®'') agreements it has with the national securities exchanges of which Eligible Firms are members, FINRA has access to, among other documents and information, Forms BD, Forms U4 for all registered persons and principals and other information available on Web CRD®, as well as Risk Assessment Reports, financial filings such as FOCUS Reports and Annual Reports and most recent Examination Reports with accompanying files and dispositions.

[14] Factors that might prompt a request for additional information or a full membership application could include, for example, whether an Eligible Firm's associated person is subject to a statutory disqualification or there are regulatory gaps identified that such firm would need to address to come into compliance with FINRA rules.

[15] If a firm is approved for FINRA membership and subsequently contemplates a business expansion to include activities beyond the scope underlying the new membership approval or a material change in business operations as that term is defined in paragraph (m) under FINRA Rule 1011 (Definitions), then such firm must apply for approval for a change in business operations pursuant to FINRA Rule 1017 (Application for Approval of Change in Ownership, Control, or Business Operations) and would be subject to the appropriate fee pursuant to Schedule A to the FINRA By-Laws.

short-form application to FINRA at least 120 calendar days before the amended Exchange Act Rule 15b9–1 compliance date to provide FINRA with the time to process a firm's short-form membership application before the amended Exchange Act Rule 15b9–1 compliance date—unless FINRA, in its discretion, agrees to accept an application after this deadline but before the amended Exchange Act Rule 15b9–1 compliance date.[16] As stated above, the Commission has announced a compliance date of September 6, 2024.

Partial Membership Application Fee Waiver

As stated above, the fee for an application for new membership, submitted through Form NMA, is typically subject to the fee structure set forth under Section 4(e) of Schedule A to the FINRA By-Laws.[17] FINRA is proposing a partial waiver of the new membership application fee for a short-form application submitted pursuant to proposed IM–1013–3. Proposed IM-Section 4(e) would assess one-half the applicable membership application fee set forth in Section 4(e) of Schedule A to the FINRA By-Laws. FINRA believes a partial fee waiver is appropriate with respect to the review of a short-form application submitted by an Eligible Firm because, as stated above, FINRA has substantial information about and experience with these firms and is familiar with their business and associated risks by virtue of the regulatory services FINRA provides pursuant to RSAs with the national securities exchanges of which the Eligible Firms are members. As such, FINRA will not need to obtain the same amount of information from an Eligible Firm that applies with the short-form application or dedicate the same resources to evaluate such an application as it would in other cases. However, as stated above, if FINRA determines that an Eligible Firm must undergo the full application and interview process pursuant to Rule 1013, such firm shall be assessed the full membership application fee set forth in Section 4(e) of Schedule A to the FINRA By-Laws.[18]

FINRA has filed the proposed rule change for immediate effectiveness. FINRA will announce the implementation date of the proposed rule change in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[19] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and must not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. FINRA believes the proposed rule change would facilitate efficient and expedited processing of membership applications from the Eligible Firms, while maintaining investor protection by ensuring that these firms meet the applicable standards for FINRA membership. As stated above, the Eligible Firms have already undergone a membership application and review process with at least one national securities exchange to determine whether these firms were fit for membership. In addition, FINRA has substantial information about and experience with these firms and therefore is familiar with their businesses and associated risks (*e.g.,* operational risks, market risk, market integrity risk) by virtue of the regulatory services FINRA provides pursuant to the RSAs it has with the national securities exchanges of which Eligible Firms are members. FINRA also retains the ability to request additional documents or information from an Eligible Firm or to require a firm to undergo the full application and interview process pursuant to Rule 1013, which further protects investors and the public interest.

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[20] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed partial waiver of the membership application fee, which would be available to all Eligible Firms that qualify to apply for new FINRA membership pursuant to proposed IM–1013–3, is consistent with an equitable allocation of reasonable fees. FINRA believes the proposed partial fee waiver reflects an equitable allocation of reasonable fees considering the streamlined review process contemplated in the short-form membership application process. As discussed above, to facilitate this streamlined membership application process, FINRA is able to leverage the substantial information about and experience with these firms gained by virtue of the regulatory services FINRA provides pursuant to RSAs with the national securities exchanges of which these firms are members. As such, FINRA would not need to obtain the same amount of information from an Eligible Firm applicant that it would from a non-Eligible Firm applicant. Moreover, the review process would also be streamlined for an Eligible Firm applicant relative to a non-Eligible Firm applicant. Thus, it is equitable to apply the fee waiver only to the Eligible Firms.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Economic Impact Assessment

(a) Regulatory Need

As discussed above, as a result of amendments to Exchange Act Rule 15b9–1, certain SEC-registered brokers or dealers that effect securities transactions other than on a national securities exchange of which they are a member will no longer qualify for an exemption from Association membership. FINRA understands that as a result, approximately 62 firms may seek to become FINRA members by the compliance date of amended Exchange Act Rule 15b9–1.[21] FINRA further understands that most, if not all, of these firms meet the standards for

[16] As stated above, certain factors may prompt a request for additional information or for a full membership application, which could prolong the time needed for FINRA to process a firm's application and issue a decision. Therefore, FINRA would encourage firms to apply for membership pursuant to proposed IM–1013–3 even earlier than 120 days before the compliance date of amended Exchange Act Rule 15b9–1.

[17] Pursuant to Section 4(e) of Schedule A to the FINRA By-Laws, the fees associated with a new FINRA membership application can vary, including a one-time application fee ranging from $7,500 to $55,000, depending on the number of registered representatives associated with a firm.

[18] *See* FINRA By-Laws, Schedule A, Section 4(e).

[19] 15 U.S.C. 78*o*–3(b)(6).

[20] 15 U.S.C. 78*o*–3(b)(5).

[21] The Commission estimated that, as of April 2023, there were 64 firms that were SEC-registered broker-dealers and exchange members but not FINRA members, and that such firms have forgone FINRA membership presumably in reliance on Exchange Act Rule 15b9–1. *See* Securities Exchange Act Release No. 98202 (August 23, 2023), 88 FR 61850, 61853–54 (September 7, 2023) (Exemption for Certain Exchange Members; Final Rule). The actual number of firms that may ultimately seek FINRA membership due to the narrowed exemption may change based on several factors. For example, since the Commission's estimate in April 2023, some firms have terminated their status as an SEC-registered broker-dealer or have already become FINRA members.

Eligible Firms as defined above. FINRA can, in most cases, effectively determine whether an Eligible Firm meets the membership standards in Rule 1014 without requiring submission of a Form NMA or subjecting such a firm to the other application and interview requirements of Rule 1013.[22]

The proposed rule change to implement the short-form membership application process would allow FINRA to review membership applications from Eligible Firms efficiently while maintaining investor protection. The partial membership application fee waiver is aligned with the proposed short-form membership application process and the related streamlined review process.

(b) Economic Baseline

The economic baseline for the proposed rule change includes the full application and interview process provided in Rule 1013, the membership application fee set forth in Section 4(e) of Schedule A to the FINRA By-Laws, and the recent amendments to Exchange Act Rule 15b9–1. FINRA understands that approximately 62 firms may seek to become FINRA members by the compliance date for amended Exchange Act Rule 15b9–1.

(c) Economic Impacts

i. Anticipated Benefits

Eligible Firms that successfully become FINRA members through the short-form membership application process would benefit from financial and non-financial cost savings given that these firms would not be required to provide documents and other information that are required under the full application and interview process. Eligible Firms would also receive a financial benefit from paying only one-half of the membership application fee. Becoming FINRA members more quickly would also resolve earlier any uncertainty firms may have about being able to join FINRA by the Commission's compliance date for its amendments to Exchange Act Rule 15b9–1.

ii. Anticipated Costs

Relative to the baseline, FINRA anticipates little or no additional risks to market integrity or investors. FINRA will obtain additional information or documents or require a firm to go through the regular NMA process if such is in the public interest and for the protection of investors. A firm that seeks to materially expand or change its business operations when applying would be required to apply for FINRA membership pursuant to all requirements under Rule 1013. A firm that is approved for FINRA membership and subsequently contemplates a business expansion to include activities beyond the scope underlying the new membership approval or a material change in business operations would be required to apply for approval for a change in business operations pursuant to Rule 1017 and be subject to the appropriate fee pursuant to Schedule A to the FINRA By-Laws.

iii. Anticipated Competitive Effects

Relative to the baseline in which Eligible Firms would go through the full application and interview process and pay the full membership application fee, FINRA anticipates minimal competitive effects, if any. A streamlined membership application process for Eligible Firms would provide them certainty that they will be able to continue their business in compliance with amended Exchange Act Rule 15b9–1. Such certainty would mitigate any concerns regarding their ability to compete in the security markets without interruption.

In addition, Eligible Firms that successfully become FINRA members through the short-form membership application process would retain the resources that they would have otherwise spent on the full application and interview process and would pay only one-half of the membership application fee. These firms may use these resources for operational or investment purposes. Regarding the membership application fee, however, FINRA anticipates that the median amount waived would be $6,250.[23] FINRA does not believe that this amount would significantly impact an Eligible Firm's business. Similarly, with respect to firms that seek FINRA membership but do not meet the proposed definition of ''Eligible Firm'' and therefore are not able to avail themselves of the short-form membership application and partial fee waiver, FINRA does not anticipate that the existence of the proposal would deter such firms from applying for FINRA membership or place them at a significant disadvantage relative to Eligible Firms. Thus, FINRA expects that the effect of the proposed rule change on industry structure and competition would be insignificant.

(d) Alternatives Considered

FINRA considered charging the full membership application fee for Eligible Firms. However, FINRA believes a partial membership application fee waiver is appropriate because, as stated above, FINRA would not need to obtain the same amount of information from an Eligible Firm applicant or dedicate the same resources to evaluate such applicant as it would for a typical new applicant because FINRA is able to leverage the substantial information about and experience with these firms gained by virtue of the regulatory services FINRA provides pursuant to the RSAs with the national securities exchanges of which the Eligible Firms are members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[24] and Rule 19b–4(f)(6)[25] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[26] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[27] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. FINRA proposes to make the proposed rule change operative on the

[22] The full membership application process may be required in some cases. *See supra* note 14.

[23] The average amount waived is anticipated to be $6,840 and ranges from $3,750 to $15,000.

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. FINRA has satisfied this requirement.

[26] 17 CFR 240.19b–4(f)(6).

[27] 17 CFR 240.19b–4(f)(6)(iii).

date of filing to allow Eligible Firms to apply for FINRA membership pursuant to proposed IM–1013–3 beginning on, or as close as possible to, the November 6, 2023 effective date of amended Exchange Act Rule 15b9–1. FINRA stated that while under the proposed rule change Eligible Firms must apply for membership at least 120 days before the September 6, 2024 compliance date of amended Exchange Act Rule 15b9–1, some firms have already inquired about beginning the application process. For those firms that wish to apply close to the effective date, this will also provide FINRA with additional time to process such Eligible Firms' applications and provide more certainty that they will be able to continue their business in compliance with amended Exchange Act Rule 15b9–1. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[28]

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 (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–FINRA–2023–014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–FINRA–2023–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of FINRA. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–FINRA–2023–014 and should be submitted on or before November 30, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Sherry R. Haywood,

Assistant Secretary.

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[28] 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).

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–98859; File No. SR–FINRA–2023–015]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change Relating to Dissemination of Information on Individual Transactions in U.S. Treasury Securities and Related Fees

November 3, 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 November 2, 2023, the Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA. 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

FINRA is proposing to (1) amend FINRA Rules 6710 and 6750 to provide that FINRA will disseminate information on individual transactions in U.S. Treasury Securities that are On-the-Run Nominal Coupons reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'') on an end-of-day basis with specified dissemination caps for large trades, and (2) amend FINRA Rule 7730 to include U.S. Treasury Securities within the existing fee structure for end-of-day and historic TRACE data.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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 July 10, 2017,[3] FINRA members began reporting information on transactions in U.S. Treasury

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See Regulatory Notice* 16–39 (October 2016); *see also* Securities Exchange Act Release No. 79116 (October 18, 2016), 81 FR 73167 (October 24, 2016) (Order Granting Accelerated Approval of File No. SR–FINRA–2016–027).

Securities[4] to TRACE.[5] In addition, pursuant to requirements adopted by the Board of Governors of the Federal Reserve System (the ''Federal Reserve Board''), on September 1, 2022, certain banks that are not FINRA members (''covered depository institutions'') began reporting information on transactions in specified fixed income securities, including U.S. Treasury Securities, to TRACE.[6] Information reported to TRACE regarding individual transactions in U.S. Treasury Securities is currently used for regulatory and other official sector purposes only and is not disseminated publicly. FINRA makes the data regarding individual transactions in U.S. Treasury Securities available to the official sector to assist them in the monitoring and analysis of the U.S. Treasury Security markets.[7]

Since the commencement of TRACE reporting for U.S. Treasury Securities, FINRA has actively studied the reported data and, in consultation with the Treasury Department, considered ways that it can enhance transparency in the U.S. Treasury Security market. On March 10, 2020, FINRA began posting on its website weekly, aggregate data on the trading volume of U.S. Treasury Securities reported to TRACE.[8] In February 2023, FINRA increased the cadence of the aggregated volume data it publishes for U.S. Treasury Securities to daily, and enhanced the content of the aggregate data by adding trade counts and, for On-the-Run Nominal Coupons,[9] volume-weighted average price information.[10]

In remarks at the 2022 U.S. Treasury Market Conference,[11] Under Secretary for Domestic Finance Liang proposed a policy of publicly releasing secondary market transaction data for On-the-Run Nominal Coupons, with end-of-day dissemination and with appropriate cap sizes. The Treasury Department's views on their policy proposal were informed by a range of inputs, including responses to a survey of the primary dealers, analysis and recommendations from the Treasury Borrowing Advisory Committee (''TBAC''),[12] and public comments submitted in response to its Request for Information (''RFI'') on Additional Transparency for Secondary Market Transactions of Treasury Securities.[13] The Treasury Department concluded that transaction-level transparency can provide important benefits for the U.S. Treasury Securities market, but should proceed in a gradual and calibrated manner to mitigate risks for large trades or for trades in less liquid segments of the U.S. Treasury Securities market. Accordingly, the Treasury Department recommended that the next step should be to release transaction data for On-the-Run Nominal Coupons, with end-of-day dissemination and appropriate cap sizes.[14]

Consistent with the Treasury Department's proposed policy, and in furtherance of FINRA's mission as a national securities association to protect investors and promote market integrity, FINRA believes that providing transaction-level information for trades in On-the-Run Nominal Coupons, with end-of-day dissemination and appropriate cap sizes, is an appropriate next step to increase transparency in transactions in U.S. Treasury Securities. Accordingly, as described in more detail below and in consultation with the Treasury Department, FINRA is proposing to commence dissemination of individual transaction information at this time for On-the-Run Nominal Coupons,[15] on an end-of-day basis with appropriate dissemination caps for large trades. The proposed rule change would not require any reporting changes by members or covered depository institutions.

Scope and Timing of Dissemination

Under Rule 6750(a), FINRA disseminates information on all transactions in TRACE-Eligible Securities,[16] including transactions effected pursuant to Securities Act Rule 144A, immediately upon receipt of the transaction report, except as provided in paragraphs (b) and (c) of Rule 6750 (Dissemination of Transaction Information). In relevant part, current Rule 6750(c)(5) provides that FINRA will not disseminate information on a transaction in a TRACE-Eligible Security that is a U.S. Treasury Security.

Under the proposed rule change, FINRA would begin disseminating individual transaction information for On-the-Run Nominal Coupon U.S. Treasury Securities on an end-of-day basis. As for all individual TRACE transaction information that FINRA

[4] Under Rule 6710(p), a ''U.S. Treasury Security'' means a security, other than a savings bond, issued by the U.S. Department of the Treasury (the ''Treasury Department'') to fund the operations of the federal government or to retire such outstanding securities. The term ''U.S. Treasury Security'' also includes separate principal and interest components of a U.S. Treasury Security that has been separated pursuant to the Separate Trading of Registered Interest and Principal of Securities (STRIPS) program operated by the Treasury Department.

[5] TRACE is the FINRA-developed system that facilitates the mandatory reporting of over-the-counter transactions in eligible fixed income securities. *See generally* Rule 6700 Series.

[6] *See* Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB, 86 FR 59716 (October 28, 2021) (Federal Reserve approval to implement the Treasury Securities and Agency Debt and Mortgage-Backed Securities Reporting Requirements (FR 2956; OMB No. 7100–NEW)).

[7] The Treasury Department, the Federal Reserve Board, the Federal Reserve Bank of New York, the SEC and the U.S. Commodity Futures Trading Commission (CFTC) comprise the Inter-Agency Working Group for Treasury Market Surveillance (IAWG or ''official sector'').

[8] *See* FINRA Press Release, FINRA Launches New Data on Treasury Securities Trading Volume, *https://www.finra.org/media-center/newsreleases/2020/finra-launches-new-data-treasury-securities-trading-volume; see also* Securities Exchange Act Release No. 87837 (December 20, 2019), 84 FR 71986 (December 30, 2019) (Order Approving File No. SR–FINRA–2019–028). FINRA also made historical weekly aggregate data for transactions in U.S. Treasury Securities reported since January 2019 available for download on its website.

[9] *See infra* note 20 and accompanying text for the proposed definition of ''On-the-Run Nominal Coupon.''

[10] *See* Technical Notice, Enhancements to Aggregated Reports and Statistics for U.S. Treasury Securities, *https://www.finra.org/filing-reporting/trace/enhancements-weekly-aggregated-reports-statistics-122822; see also* Securities Exchange Act Release No. 95438 (August 5, 2022), 87 FR 49626 (August 11, 2022) (Order Approving File No. SR–FINRA–2022–017).

[11] Remarks by Under Secretary for Domestic Finance Nellie Liang at the 2022 Treasury Market Conference (November 16, 2022), *https://home.treasury.gov/news/press-releases/jy1110* (''Treasury Conference Remarks'').

[12] *See* Treasury Department, Additional Public Transparency in Treasury Markets, (November 2022), *https://home.treasury.gov/system/files/221/TBACCharge1Q42022.pdf* (''TBAC Findings'').

[13] See Treasury Department, Notice Seeking Public Comment on Additional Transparency for Secondary Market Transactions of Treasury Securities, 87 FR 38259 (June 27, 2022) (Docket No. TREAS–DO–2022–0012).

[14] *See* TBAC Findings, *supra* note 12, at 28–29; Treasury Conference Remarks, *supra* note 11.

[15] The proposed rule change would not affect FINRA's existing publication of aggregate U.S. Treasury Security data. FINRA would continue to publish daily and monthly aggregate U.S. Treasury Security data on the same terms as it does today, which include aggregate data on other types of U.S. Treasury Securities in addition to On-the-Run Nominal Coupons. *See supra* notes 8 and 10 and accompanying text.

[16] Rule 6710(a) generally defines a ''TRACE-Eligible Security'' as a debt security that is United States (''U.S.'') dollar-denominated and is: (1) issued by a U.S. or foreign private issuer, and, if a ''restricted security'' as defined in Securities Act Rule 144(a)(3), sold pursuant to Securities Act Rule 144A; (2) issued or guaranteed by an Agency as defined in Rule 6710(k) or a Government-Sponsored Enterprise as defined in Rule 6710(n); or (3) a U.S. Treasury Security as defined in Rule 6710(p). ''TRACE-Eligible Security'' does not include a debt security that is issued by a foreign sovereign or a Money Market Instrument as defined in Rule 6710(o). Beginning on November 6, 2023, the definition of ''TRACE-Eligible Security'' will be amended to also include a Foreign Sovereign Debt Security as defined in new paragraph (kk) of Rule 6710. *See* FINRA Adopts Amendments to Require Reporting of Transactions in U.S. Dollar-Denominated Foreign Sovereign Debt Securities to TRACE, *Regulatory Notice* 22–28 (December 2022); *see also* Securities Exchange Act Release No. 95465 (August 10, 2022); 87 FR 50354 (August 16, 2022) (Order Approving File No. SR–FINRA–2022–011) (''Foreign Sovereign Filing'').

disseminates, the disseminated transaction information for U.S. Treasury Securities would be anonymized, *i.e.,* it would not include the market participant identifier (MPID) or other identifying information regarding the parties to the trade. However, consistent with other TRACE products, the disseminated transaction information would include counterparty type (*i.e.,* dealer, customer, affiliate, or alternative trading system (''ATS'')), a flag to indicate whether the trade was executed on an ATS, and other trade modifiers and indicators. To implement such dissemination, FINRA is proposing to amend Rule 6750(c)(5) (to be redesignated as Rule 6750(d)(5)) to provide that FINRA will not disseminate information on a transaction in a TRACE-Eligible Security that is a U.S. Treasury Security ''other than an On-the-Run Nominal Coupon,'' and to add a new paragraph (c) to Rule 6750 providing that FINRA will disseminate information on individual transactions in On-the-Run Nominal Coupons on an end-of-day basis.[17] Consistent with the Treasury Department's proposed policy, these proposed amendments to Rule 6750 would provide for FINRA to disseminate information on individual transactions in U.S. Treasury Securities on an end-of-day basis only, rather than immediately upon receipt of the transaction report, and would specifically limit such dissemination to On-the-Run Nominal Coupons.[18] FINRA believes that disseminating information on individual transactions in On-the-Run Nominal Coupons on an end-of-day basis at this time would strike an appropriate balance between enhancing transparency by providing timely information to the public about U.S. Treasury Security market activity and mitigating potential information leakage concerns that could arise with a more accelerated dissemination timeframe, such as a real-time data feed.[19] FINRA may in the future consider whether it would be appropriate to disseminate information for transactions in U.S. Treasury Securities on a more accelerated basis.

To provide clarity regarding the scope of transactions in U.S. Treasury Securities that would be subject to individual dissemination under amended Rule 6750, FINRA is proposing to add a definition of ''On-the-Run Nominal Coupon'' as new paragraph (ll) of Rule 6710 (Definitions).[20] Specifically, ''On-the-Run Nominal Coupon'' would be defined to mean the most recently auctioned U.S. Treasury Security that is a Treasury note or bond paying fixed rate nominal coupons starting after the close of the TRACE system on the day of its Auction through the close of the TRACE system on the day of the Auction of a new issue for the next U.S. Treasury Security of the same maturity.[21] For further clarity, the proposed definition would specify that On-the-Run Nominal Coupons do not include Treasury bills, STRIPS, Treasury Inflation-Protected Securities (TIPS), floating rate notes (FRNs), or any U.S. Treasury Security that is a Treasury note or bond paying a fixed rate nominal coupon that is not the most recently issued U.S. Treasury Security of a given maturity (*i.e.,* off-the-run nominal coupons).[22] FINRA believes this proposed definition is consistent with Treasury Department usage and industry practice in categorizing different types of U.S. Treasury Securities, and is also consistent with how FINRA currently categorizes different U.S. Treasury Securities for purposes of groupings in its existing U.S. Treasury Security aggregate data.[23] Consistent with the Treasury Department's proposed policy, FINRA believes it is appropriate at this time to limit dissemination of individual transaction information to On-the-Run Nominal Coupons. FINRA may in the future consider whether it would be appropriate to disseminate information for transactions in other types of U.S. Treasury Securities, such as off-the-run nominal coupons.

Dissemination Protocols

As described above, under the proposed rule change all individual transactions in On-the-Run Nominal Coupons reported to TRACE on a given trading day would generally be included in the end-of-day dissemination file for such date. However, to further mitigate concerns around information leakage for large trades and in consideration of the different risk and liquidity characteristics among different U.S. Treasury Security tenors, FINRA would implement transaction size dissemination caps to indicate that the size of a trade was above a designated threshold. This approach is consistent with the Treasury Department's proposed policy as well as FINRA's existing dissemination protocols for other types of TRACE-Eligible Securities.

Accordingly, in consultation with the Treasury Department, FINRA proposes to apply the following transaction size dissemination caps based on the maturity of the On-the-Run Nominal Coupon at issuance:[24]

- Two Years: $250 million;
- Three Years: $250 million;
- Five Years: $250 million;
- Seven Years: $150 million;
- 10 Years: $150 million;
- 20 Years: $50 million; and
- 30 Years: $50 million.

Thus, for example, a $200 million transaction in a 10-year On-the-Run

[17] To accommodate the addition of new paragraph 6750(c), the proposed rule change would redesignate current Rule 6750(c) as Rule 6750(d), and make conforming changes to the paragraph cross-references in Rule 6750(a) and Supplementary Material .01 to Rule 6750. The proposed rule text also reflects the inclusion of Rule 6750(c)(6) (to be redesignated as Rule 6750(d)(6)), which will be added by the Foreign Sovereign Filing effective November 6, 2023. *See* Foreign Sovereign Filing, *supra* note 16.

[18] The proposed dissemination would include all transactions in On-the-Run Nominal Coupons reported to TRACE, including both transactions reported by FINRA members and transactions reported by covered depository institutions pursuant to rulemaking by the Federal Reserve. *See supra* note 6 and accompanying text.

[19] FINRA members are generally required to report transactions in U.S. Treasury Securities to TRACE within 60 minutes of the Time of Execution. *See* Rule 6730(a)(4).

[20] The proposed paragraph designation for the new definition of ''On-the-Run Nominal Coupon'' in Rule 6710 reflects the inclusion of paragraphs (jj) and (kk) in Rule 6710, which were added, respectively, by the Corporate Bond New Issue Reference Data Service Filing (*see* Securities Exchange Act Release No. 90939 (January 15, 2021); 86 FR 6922 (January 25, 2021) (Order Approving File No. SR–FINRA–2019–008)) and Foreign Sovereign Filing. While the Corporate Bond New Issue Reference Data Service Filing has not been implemented, the Foreign Sovereign Filing will become effective November 6, 2023. *See* Foreign Sovereign Filing, *supra* note 16.

[21] Under Rule 6710(gg), ''Auction'' means the bidding process by which the Treasury Department sells marketable securities to the public pursuant to Part 356 of Title 31 of the Code of Federal Regulations.

[22] FINRA will identify the most recently auctioned U.S. Treasury Security that is a Treasury note or bond paying fixed rate nominal coupons as an ''On-the-Run Nominal Coupon'' in TRACE reference data beginning on the business day after its auction.

[23] Information about the U.S. Treasury Security aggregate statistics, including security subtypes and groupings, is available at *https://www.finra.org/finra-data/browse-catalog/about-treasury.*

[24] FINRA would incorporate information about these dissemination caps in the TRACE dissemination protocols published on its website, available at *https://www.finra.org/filing-reporting/trade-reporting-and-compliance-engine-trace/trace-reporting-timeframes.* Specifically, information about the dissemination caps would be added as a new bullet in the ''Transparency'' column of the row of the table describing the protocols for ''Treasury Bonds,'' to read as follows: ''Individual transactions in On-the-Run Nominal Coupons are disseminated on an end-of-day basis with security identifiers (*e.g.,* CUSIP) and the following transaction size caps based on the maturity of the security at issuance: 2 Years: $250 million; 3 Years: $250 million; 5 Years: $250 million; 7 Years: $150 million; 10 Years: $150 million; 20 Years: $50 million; 30 Years: $50 million.''

Nominal Coupon would be disseminated with a trade size of ''150MM+'' rather than the actual dollar amount of the trade.[25] As discussed further below, FINRA believes these transaction size caps are appropriately tailored to mitigate potential information leakage concerns related to large transactions given the different liquidity and concentration characteristics of the market for each maturity. In consultation with the Treasury Department and based on ongoing analysis of the data, FINRA may in the future make adjustments to these dissemination caps to maintain the appropriate balance between enhanced transparency and protecting against potential information leakage that could negatively impact trading behaviors. Any proposed future changes to the dissemination caps would be filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934.

Dissemination Fees

FINRA is also proposing amendments to Rule 7730 (Trade Reporting and Compliance Engine) to expand the existing fee framework for the TRACE End-of-Day Transaction File and the Historic TRACE Data product to include data products providing for the dissemination of information on individual transactions in On-the-Run Nominal Coupons. Rule 7730, among other things, sets forth the TRACE data products offered by FINRA in connection with information on TRACE-Eligible Securities and associated data fees.

Among other products, Rule 7730 provides for the dissemination of an End-of-Day TRACE Transaction File and Historic TRACE Data. Rule 7730(g)(6) defines the End-of-Day TRACE Transaction File to mean a daily file that includes all transaction data disseminated as part of Real-Time TRACE transaction data on that day, which is separately available for each data set for which Real-Time TRACE transaction data is available (*i.e.,* the Corporate Bond Data Set, Agency Data Set, SP Data Set, and Rule 144A Data Set) [26] and made available daily after the TRACE system closes. Rule 7730(g)(4) defines Historic TRACE Data to mean historic transaction-level data with elements to be determined from time to time by FINRA in its discretion as stated in a *Regulatory Notice* or other equivalent publication, which will not include market participant identifiers (MPIDs). Historic TRACE Data is separately available for each of the Historic Corporate Bond Data Set, the Historic Agency Data Set, the Historic SP Data Set, and the Historic Rule 144A Data Set, as defined in Rule 7730(g)(4)(A) through (D). Historic Corporate Bond and Historic Agency Data is delayed a minimum of six months, while Historic SP Data is delayed a minimum of 18 months and Historic Rule 144A Data carries a delay consistent with the delay period applicable to the component security type (*e.g.,* the delay for a Rule 144A transaction in a Securitized Product (SP) is 18 months, while the delay for a Rule 144A transaction in a corporate bond is six months). Generally, Historic TRACE Data includes the same transaction information as provided in the End-of-Day TRACE Transaction File for a given period of time, except that the End-of-Day TRACE Transaction File includes dissemination caps for large transactions while the Historic TRACE Data includes the actual, uncapped transaction sizes.

Rule 7730 sets forth, among other things, the fees applicable to receive the End-of-Day TRACE Transaction File and Historic TRACE Data from FINRA, which apply individually for each data set (*i.e.,* a separate fee applies for each of the Corporate Bond Data Set, Agency Data Set, SP Data Set, and Rule 144A Data Set). The fee for the End-of-Day TRACE Transaction File is $750/month per data set,[27] with a lower $250/month per data set fee available to qualifying Tax-Exempt Organizations.[28] The fee for Historic TRACE Data is $2,000/calendar year per data set, with a lower $500/calendar year per data set fee available to qualifying Tax-Exempt Organizations.[29] A single fee of $2,000 for development and set-up to receive Historic TRACE Data also applies, with a lower $1,000 development and set-up fee available to qualifying Tax-Exempt Organizations.[30]

FINRA is proposing that the End-of-Day TRACE Transaction File and Historic Data include a new set of data for U.S. Treasury Securities, as outlined above, with the same fees for the Treasury data set that exist for other sets of TRACE-Eligible Securities. To effectuate these changes, under the proposed rule change, FINRA would amend the existing definition of ''End-of-Day TRACE Transaction File'' in Rule 7730(g)(6) to include the End-of-Day Transaction File for U.S. Treasury Securities as a separately available daily file that includes transaction data for On-the-Run Nominal Coupons reported to TRACE on that day.[31] FINRA would similarly amend the definition of ''Historic TRACE Data'' in Rule 7730(g)(4) to add a new definition of ''Historic Treasury Data Set'' to include all historic transactions in On-the-Run Nominal Coupons reported to TRACE. Historic Treasury Data would also be subject to a minimum six-month delay, as is the case currently for the existing Historic Corporate Bond and Historic Agency Data sets.[32] The addition of U.S. Treasury Securities to the current framework in Rule 7730 for the TRACE End-of-Day Transaction File and Historic TRACE Data products would apply the existing data fees for each current TRACE data set to the new U.S.

[25] As described further below, these dissemination caps would apply for the end-of-day dissemination file. Consistent with its approach to other TRACE data products, FINRA also plans to provide an Historic TRACE data product covering the same scope of transactions, which would provide the actual, uncapped transaction sizes on a six-month delayed basis.

[26] These data sets are defined in Rule 7730(c), which sets forth the market data fees for Real-Time TRACE transaction data. Under Rule 7730(g)(3), ''Real-Time'' is defined to mean that period of time starting from the time of dissemination by FINRA of transaction data on a TRACE-Eligible Security, and ending no more than four hours thereafter.

[27] There is no charge for receipt of the End-of-Day TRACE Transaction file for a given data set for a subscriber to the Vendor Real-Time Data feed for that data set.

[28] For purposes of Rule 7730, a Tax-Exempt Organization means an organization that is described in Section 501(c) of the Internal Revenue Code (26 U.S.C. 501(c)) and has received recognition of the exemption from federal income taxes from the Internal Revenue Service. *See* Rule 7730(g)(2).

[29] The $2,000 fee for non-qualifying Tax Exempt Organizations is applicable where the subscriber receives the data for internal use and internal and/or external display application, but bulk re-distribution of data is not permitted at this rate. A non-qualifying Tax Exempt Organization seeking bulk re-distribution of the Historic TRACE Data is instead subject to a fee of $1/CUSIP per calendar year (or part thereof) within a single data set of Historic TRACE Data per each recipient of re-distributed data, with a maximum fee per data set of $1,000/calendar year (or part thereof) per each recipient of re-distributed data. A qualifying Tax-Exempt Organization is subject to the $500/calendar year per data set fee for internal use and internal and/or external display application, with bulk re-distribution of data permitted with certain restrictions.

[30] The development and set-up fee is a one-time fee when a subscriber initially begins receiving Historic TRACE Data for any data set. The fee does not apply if a subscriber switches data sets, or adds additional data sets, of Historic TRACE Data.

[31] A clarifying edit would also be made to the first sentence of Rule 7730(g)(6), which defines End-of-Day TRACE Transaction File for the existing data sets, to clarify that it applies for Data Sets other than U.S. Treasury Securities. This change is necessary because the definition for other Data Sets is based on data disseminated as part of Real-Time TRACE transaction data on that day for a given data set, which will not be applicable for U.S. Treasury Securities.

[32] A conforming change would also be made in the description of Historic TRACE Data in Rule 7730(d) to add the Historic Treasury Data Set to the list of data sets comprising Historic TRACE Data.

Treasury data sets.[33] FINRA believes these fees are reasonable, and notes that, as for any of the TRACE data sets, subscribing to each product is optional for members and others.

FINRA has an expansive and robust regulatory program regarding U.S. Treasury Securities, involving TRACE reporting requirements; dissemination of aggregate data and, if this filing is approved, dissemination of individual transaction data; surveillance and examination for complete and accurate reporting; and surveillance, examinations, and enforcement for manipulation and other unfair and prohibited trading practices, both in the U.S. Treasury Security market and across markets and products. FINRA to date has not implemented any additional fees to recover its implementation or ongoing operation costs with respect to its regulatory programs concerning activity in U.S. Treasury Securities.[34] FINRA continues to review its revenue and cost structure and consider ways to fund its operations in this area. FINRA believes the fees proposed in the instant filing are reasonable given the incremental costs to be incurred by FINRA in developing, producing, and distributing the new U.S. Treasury Security data sets and providing ongoing administrative, functional, and technical support to subscribers. However, FINRA notes that such fees will not, and are not designed to, recover FINRA's full costs with respect to FINRA's regulatory programs regarding TRACE for U.S. Treasury Securities; FINRA intends to further consider the most appropriate fee structure(s) to recover these costs.

If the Commission approves the proposed rule change, FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice.*

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[35] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(9) of the Act,[36] which requires that FINRA rules not impose any burden on competition that is not necessary or appropriate. FINRA believes that the proposal represents an important step in enhancing transparency in the U.S. Treasury Securities market, consistent with the Treasury Department's proposed policy, by beginning dissemination of individual transaction information in a calibrated and careful manner, on an end-of-day basis, limited to On-the-Run Nominal Coupons, and with appropriate dissemination caps for large trades. FINRA believes that providing this data to the public would improve price transparency for U.S. Treasury Securities, benefiting liquidity and resilience in this critical market, while also mitigating potential information leakage concerns that could negatively impact market behavior.

FINRA also believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[37] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. Pursuant to the proposed rule change, FINRA will establish fees for (i) the new End-of-Day TRACE Transaction file for U.S. Treasury Securities and (ii) the new Historic TRACE Data product for U.S. Treasury Securities. In each case, the fees will be the same as those FINRA already charges to receive each of the other data sets for other types of TRACE-Eligible Securities. FINRA believes these fees are reasonable and are identical to existing fees already in place for end-of-day and historic data products for other types of TRACE-Eligible Securities. FINRA further notes that the fees will be applied equally to all similarly situated interested parties that choose to subscribe to either data product, and that subscribing to these data products is optional for members and others.

Thus, FINRA believes that the proposed rule change is in the public interest and consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Economic Impact Assessment

FINRA has undertaken an economic impact assessment, as set forth below, to further analyze the regulatory need for the proposed amendments to the TRACE rules, their potential economic impacts, and the alternatives considered in assessing how to best meet FINRA's regulatory objectives.

Regulatory Need

Under existing rules, transaction-level data in U.S. Treasury Securities reported to TRACE is used for regulatory and other official sector purposes and is not publicly disseminated.[38] Currently, market participants may access some post-trade information for U.S. Treasury Securities directly through multiple private platforms. However, the data provided by such private platforms is not comprehensive, its content and format might vary across venues, and the data is available only to those trading on a specific platform or subscribing to its data services.

FINRA believes that the proposed amendments relating to dissemination of individual transaction information for U.S. Treasury Securities are consistent with FINRA's ongoing TRACE transparency initiatives. The proposal may create a more level playing field, increase understanding of market activity, enhance market liquidity, reduce transaction costs, and assist in price efficiency and valuation.

Economic Baseline

FINRA analyzed secondary market activity in U.S. Treasury Securities from September 1, 2022, to February 28, 2023 using transactions reported to TRACE.[39] During the six-month sample period, there were 941 unique trade reporters (904 broker-dealers, 17 ATSs, 15 depository institutions, and five depository institution customers).[40] Table 1 shows that, during the sample

[33] As for other types of TRACE-Eligible Securities, FINRA also anticipates making transaction information for On-the-Run Nominal Coupons available free of charge for personal, non-commercial purposes only through FINRA's Fixed Income Data website, available at *https://www.finra.org/finra-data/fixed-income.*

[34] FINRA notes that, unlike for other types of TRACE-Eligible Securities, FINRA does not currently charge reporting fees for transactions in U.S. Treasury Securities.

[35] 15 U.S.C. 78*o*–3(b)(6).

[36] 15 U.S.C. 78*o*–3(b)(9).

[37] 15 U.S.C. 78*o*–3(b)(5).

[38] As noted, FINRA shares this data with the IAWG, which includes the Treasury Department, The Federal Reserve Board, The Federal Reserve Bank of New York, the SEC, and the CFTC. *See supra* note 7.

[39] The reported statistics include transactions reported to TRACE by covered depository institutions pursuant to Federal Reserve Board requirements. Beginning September 1, 2022, certain depository institutions (Covered Depository Institutions) were required to report transactions in U.S. Treasury Securities, agency debt securities and agency mortgage-backed securities (Covered Securities) to FINRA's Trade Reporting and Compliance Engine (TRACE). For more information, *see https://www.finra.org/filing-reporting/trace/federal-reserve-depository-institution-reporting.*

[40] Reporting parties were identified using market participant identifiers (MPIDs). Depository institution customers are depository institutions with buy-side activity only.

period, there were on average 302,120 trades per day in all U.S. Treasury Securities with an average daily volume of approximately $732.01 billion. Daily trades in Treasury notes and bonds [41] on average accounted for 77.6 percent of all daily trades and 74.6 percent of the total daily dollar volume in all U.S. Treasury Securities, which also includes bills, TIPS and STRIPS in addition to notes and bonds.

TABLE 1—TRADING ACTIVITY IN TREASURY SECURITIES

Type	Number of trades		Dollar volume	
	Average daily (thousands)	Total (MM)	Average daily ($B)	Total ($T)
Total	302.12	36.56	732.01	88.57
Security Type				
Bills	63.17	7.64	165.89	20.07
Notes & Bonds	234.56	28.38	546.27	66.10
TIPS	2.82	0.34	16.30	1.97
STRIPS	1.57	0.19	3.55	0.43
Counterparty Type*				
Customer	83.45	10.10	270.64	32.75
Dealer	148.87	18.01	301.00	36.42
Affiliate	11.36	1.38	78.65	9.52
PTF	58.44	7.07	81.72	9.89
Venue				
ATS	157.14	19.01	251.15	30.39
Non-ATS	144.98	17.54	480.86	58.18

* The ''customer'' counterparty type includes trades between broker-dealers and customers or between covered depository institutions and customers. The ''dealer'' counterparty type includes interdealer trades, trades between broker-dealers and covered depository institutions, as well as trades among covered depository institutions. The ''affiliate'' counterparty type includes trades between broker-dealers and non-member affiliates or trades between covered depository institutions and non-member affiliates. The ''PTF'' counterparty type includes trades conducted by principal trading firms (PTFs) and other non-FINRA members on a ''covered ATS,'' as defined in FINRA Rule 6730.07.

Further analysis of the data shows that the average daily number of trades and average daily dollar volume of On-the-Run Nominal Coupons were approximately 166,240 and $392.80 billion respectively which were substantially higher than the number and volume of trades in off-the-run nominal coupons (approximately 68,079 and $150.18 billion respectively).

Table 2 provides more detail regarding the trades in the On-the-Run Nominal Coupons that are subject to the proposed amendments. On-the-Run Nominal Coupons on average accounted for approximately 55 percent of the total daily number of trades and 53.7 percent of the total daily volume of trades in U.S. Treasury Securities during the sample period.[42] Separating out the activity by maturity shows that 5-year notes are the most actively traded both in terms of the number and volume of trades. The analysis also shows active interdealer trading and electronic trading, as proxied by ATS volume, in this market segment and a substantial volume of trades by non-FINRA members, such as PTFs, on the ATS platforms that are subject to Rule 6730.07.[43]

TABLE 2—TRADING ACTIVITY IN ON-THE-RUN NOMINAL COUPON TREASURY SECURITIES

Type	Number of trades		Dollar volume	
	Average daily (thousands)	Total (MM)	Average daily ($B)	Total ($T)
Total	166.24	20.11	392.80	47.53
Maturity				
2Y	21.99	2.66	60.19	7.28
3Y	20.19	2.44	53.27	6.45
5Y	46.72	5.65	115.38	13.96
7Y	13.76	1.66	31.85	3.85
10Y	43.95	5.32	94.24	11.40
20Y	5.14	0.62	10.66	1.29

[41] Treasury notes and bonds include nominal coupon securities and 2-year FRNs.

[42] The average transaction size in these securities was $2.37 million. The median and the 99th percentile are approximately $1 million and $26.76 million, respectively.

[43] The proportion of customer and non-ATS trades are substantially lower in On-the-Run Nominal Coupons compared to the broader Treasury Securities market. Trade sizes for transactions in U.S. Treasury Securities that occur on an ATS are, on average, smaller than non-ATS trades.

TABLE 2—TRADING ACTIVITY IN ON-THE-RUN NOMINAL COUPON TREASURY SECURITIES—Continued

Type	Number of trades		Dollar volume	
	Average daily (thousands)	Total (MM)	Average daily ($B)	Total ($T)
30Y	14.50	1.75	27.21	3.29
Counterparty Type				
Customer	10.34	1.25	100.87	12.20
Dealer	90.93	11.00	184.99	22.38
Affiliate	7.02	0.85	33.47	4.05
PTF	57.95	7.01	73.48	8.89
Venue				
ATS	130.17	15.75	184.87	22.37
Non-ATS	36.07	4.36	207.93	25.16

Economic Impacts

Given the unique and fundamental role of the U.S. Treasury Securities market in the global economy, promoting the market's liquidity, efficient functioning, and resilience in times of stress is crucial both to Treasury market participants and the broader financial system.

The following sections outline the potential benefits and costs of the proposed dissemination of end-of-day and historical transaction-level information for On-the-Run Nominal Coupons, with appropriate dissemination caps for large trades. The discussion is informed by the public comments submitted in response to the Treasury Department's RFI,[44] the Sia Partners/SIFMA survey results,[45] TBAC Findings,[46] and the academic literature.

Anticipated Benefits

While the RFI and survey respondents expressed mixed opinions on the impact of increased transparency on market liquidity and resilience, they broadly supported a gradual and calibrated approach to providing additional transparency in the Treasury Security market.[47] The anticipated benefits included reducing trading costs, increasing liquidity, incentivizing intermediation and promoting additional participation, increasing market confidence, enhancing risk management, and higher market resilience during times of stress.[48] Some respondents indicated that having access to transaction-level information could lead to improved price discovery and trade execution for both investors and dealers. Others indicated that additional transparency would assist quantitative trading firms as electronic trading becomes more prevalent.[49]

The academic literature also provides insights on the effects of post-trade transparency in other fixed income markets and investigates the effect of transparency on price discovery, market liquidity, and the welfare of different classes of market participants. Several studies found that the transparency following the initiation of TRACE resulted in substantially lower trading costs and bid-ask spreads in the corporate bond market, not only for bonds whose trades were disseminated, but for other bonds as well.[50] Studies on the impacts of post-trade transparency in the municipal bond market and securitized products market also reported reduced transaction costs as a result of additional transparency.[51] These results are consistent with investors' ability to negotiate better prices in the presence of post-trade transparency.

FINRA believes that end-of-day public dissemination of transaction information on On-the-Run Nominal Coupons, as described above, would similarly benefit market participants by providing access to a single-source, comprehensive data set, subject to the proposed fees. The availability of this information, together with the historic TRACE data product for U.S. Treasury Securities, may also prompt further research and facilitate a better understanding of the U.S. Treasury Securities market, ultimately benefiting investors and other market participants and providing insight into how to better support the resiliency of the U.S. Treasury Securities market in times of stress.

Anticipated Costs

Market participants (and dealers in particular) expressed a concern in response to the Treasury Department's RFI and Sia Partners/SIFMA survey that releasing transaction details could potentially expose trading strategies or

[44] *See supra* note 13.

[45] *See* Additional Transparency for Secondary Market Transactions of Treasury Securities (October 2022), *https://www.sifma.org/wp-content/uploads/2022/10/FINAL-SIA-SIFMA-REPORT-Additional-Transparency-for-Secondary-Market-Transactions-of-Treasury-Securities.pdf.*

[46] *See* TBAC Findings, *supra* note 12.

[47] *See, e.g.,* comment letters from CME Group Inc. and JPMorgan Chase & Co., available at *https://www.regulations.gov/docket/TREAS-DO-2022-0012/comments.*

[48] *See, e.g.,* comment letters from Spatt, Hollifield & Neklyudov; Jane Street Capital, LLC; MarketAxess Holdings Inc.; and Citadel Securities, available at *https://www.regulations.gov/docket/TREAS-DO-2022-0012/comments.*

[49] *See* Sia Partners/SIFMA survey, *supra* note 45, at 9–10.

[50] The studies interpret the effect on other bonds as a ''liquidity spillover'' where the traded prices of disseminated bonds provided useful information for valuing bonds whose trades were not disseminated. *See* Hendrik Bessembinder, William Maxwell & Kumar Venkataraman, Market Transparency, Liquidity Externalities, and Institutional Trading Costs in Corporate Bonds, 82(2) Journal of Financial Economics 251–288 (2006); Amy K. Edwards, Lawrence E. Harris & Michael S. Piwowar, Corporate Bond Market Transaction Costs and Transparency, 62(3) The Journal of Finance 1421–1451 (2007); Michael A. Goldstein, Edith S. Hotchkiss & Erik R. Sirri, Transparency and Liquidity: A Controlled Experiment on Corporate Bonds, 20(2) The Review of Financial Studies 235–273 (2007); Hendrik Bessembinder & William Maxwell, Markets: Transparency and the Corporate Bond Market, 22(2) The Journal of Economic Perspectives 217–234 (2008).

[51] *See* Erik R. Sirri, Report on Secondary Market Trading in the Municipal Securities Market (2014), *https://www.msrb.org/sites/default/files/2022-09/MSRB-Report-on-Secondary-Market-Trading-in-the-Municipal-Securities-Market.pdf;* John Chalmers, Yu Liu & Z. Jay Wang, The Difference a Day Makes: Timely Disclosure and Trading Efficiency in the Muni Market, 139(1) Journal of Financial Economics 313–335 (2021); Paul Schultz & Zhaogang Song, Transparency and Dealer Networks: Evidence from the Initiation of Post-Trade Reporting in the Mortgage Backed Security Market, 133(1) Journal of Financial Economics 113–133 (2019).

positions to competitors and impede dealers' ability to appropriately manage risk and confidentially hedge their positions. If true, this could decrease intermediaries' risk-taking capacity and their willingness to participate, leading to a decline in liquidity supply and market resilience during stressed conditions. These concerns were mostly directed to the less-liquid market segments, larger trade sizes, and real-time dissemination.[52] Most commenters and respondents believed that there was limited risk to the delayed dissemination of the transaction-level information for On-the-Run Nominal Coupons with appropriate transaction size dissemination caps. Some RFI commentors indicated that additional transparency could impact market participants' trading behavior by incentivizing market participants to engage in smaller size trades or other behaviors to avoid dissemination, such as attempting to move flows outside the U.S. market.[53] Generally, the RFI and survey respondents shared the view that introducing additional post-trade transparency in the U.S. Treasury Securities market requires careful and prudent implementation to avoid disrupting market functioning.

The academic papers and industry reports that studied the impacts of post-trade transparency in other markets have found evidence of dealers' reluctance to carry inventory in the disseminated securities and moving flow to alternative markets.[54] Others found evidence of difficulty in executing larger trades, reduced trading volume and transaction size—particularly in riskier and less liquid assets.[55]

Accordingly, the proposed rule change incorporates multiple mitigants, developed in consultation with the Treasury Department, to address these concerns. First, the scope of the proposed rule change is limited to only transactions in On-the-Run Nominal Coupons, which are highly liquid. Second, delayed, end-of-day dissemination would further protect market participants against information leakage. Third, FINRA has conducted careful analysis and consulted with Treasury to specify appropriate transaction size dissemination caps calibrated to the maturity, liquidity and trading concentration in the underlying security to preserve the anonymity of market participants trading large transactions. In setting the proposed transaction size dissemination caps, FINRA considered both the percentage of traded market volume that would be disseminated (versus reported) across each maturity along with the daily number of unique intermediaries trading each security at or above the cap size for each maturity. This approach balances providing similar levels of transparency across maturities with sensitivity to information leakage concerns regarding reverse engineering of other market participants' identities, positions, or trading strategies. In this regard, FINRA analyzed the concentration of dealer activity and market liquidity in trades above various cap sizes in each specific Treasury maturity.

The proposed dissemination caps would—across all maturities—result in 0.09 percent of transactions being capped. Specifically, for the two-year, three-year, and five-year notes (which would be subject to a $250 million dollar cap), 0.08 percent, 0.08 percent, and 0.03 percent of transactions, respectively, would be capped upon dissemination (*i.e.,* because the size of the trade was greater than $250 million); for the seven-year and 10-year notes (which would be subject to a $150 million dollar cap), 0.13 percent and 0.05 percent of transactions, respectively, would be capped upon dissemination (*i.e.,* because the size of the trade was greater than $150 million); and for the 20-year and 30-year bonds (which would be subject to a $50 million dollar cap), 0.39 percent and 0.29 percent of transactions, respectively, would be capped upon dissemination (*i.e.,* because the size of the trade was greater than $50 million).

There is no anticipated operational impact on member firms as a result of FINRA's proposed end-of-day and historical dissemination of On-the-Run Nominal Coupon data, as reporting requirements will remain unchanged. As noted above, the disseminated data would be available to market participants for a fee. The proposed fees for the Treasury data set are the same as those that exist for other types of TRACE-Eligible Securities. FINRA does not anticipate any negative competitive effects as a result of the proposed fees. The proposed end-of-day and historical dissemination of transactions in On-the-Run Nominal Coupon U.S. Treasury Securities, subject to their related fees, will provide an option for all market participants, including smaller firms, to access post-trade transparency in the U.S. Treasury Securities market at a reasonable cost. Some market participants may choose to access the data indirectly through their data vendors as the vendors may externally display the data.[56] Those market participants who choose to access the data directly through FINRA may incur an additional cost to set up the technological infrastructure necessary to access the data if they are not already subscribed to other TRACE data products. On balance, market participants would only incur costs if they determine that the benefits of receiving the data outweigh the costs.

Alternatives Considered

FINRA, in consultation with the Treasury Department, considered several alternatives with respect to the scope of the Treasury Securities that would be subject to dissemination under the proposed rule change, dissemination timeframes, and transaction size dissemination caps.

Scope of the Treasury Securities Subject to Dissemination

Regarding the scope of the U.S. Treasury Securities proposed to be subject to dissemination, FINRA considered including off-the-run and other types of U.S. Treasury Securities. However, since On-the-Run Nominal Coupons are both highly liquid and represent a significant portion of the Treasury Securities volume, FINRA believes that disseminating transaction-level data for On-the-Run Nominal Coupons would improve Treasury Securities market transparency with limited risk for market participants. The RFI and survey respondents' concerns regarding the potential impact of disseminating transaction data on their ability to manage their inventory risk were more pronounced for the less-liquid segments of the market, such as off-the-run U.S. Treasury Securities.

[52] *See, e.g.,* comment letters from Citigroup Global Markets Inc.; Vanguard Group, Inc.; and the joint comment letter from SIFMA, SIFMA AMG, ABASA, and IIB, available at *https://www.regulations.gov/docket/TREAS-DO-2022-0012/comments.*

[53] *See* TBAC Findings, *supra* note 12, at 7.

[54] *See* Hendrik Bessembinder & William Maxwell, Markets: Transparency and the Corporate Bond Market, 22(2) The Journal of Economic Perspectives 217–234 (2008).

[55] *See* Paul Asquith, Thomas Covert & Parag A. Pathak, The Effects of Mandatory Transparency in Financial Market Design: Evidence from the Corporate Bond Market (2019), available at *https://ssrn.com/abstract=2320623;* Bruce Mizrach, Analysis of Corporate Bond Liquidity (2015), *https://www.finra.org/sites/default/files/OCE_researchnote_liquidity_2015_12.pdf;* Greenwich Associates, In Search of New Corporate Bond Liquidity (2016) available at *https://www.greenwich.com/fixed-income-fx-cmds/search-new-corporate-bond-liquidity;* Schultz & Song, *supra* note 51.

[56] The bulk re-distribution of the data is permitted subject to a different fee structure or additional restrictions, as discussed above.

Dissemination Timeframe

FINRA also considered real-time and less delayed dissemination of transaction level data as potential dissemination timeframe alternatives. However, weighing the potential benefits of providing the market with more timely data against concerns about protecting the confidentiality of market participants' positions and trading strategies, FINRA believes that, on balance, end-of-day dissemination will prudently balance the timeliness of transparency and concerns regarding potential negative impacts. End-of-day dissemination will provide FINRA and others the ability to research the proposed rule change's impact.[57]

Transaction Size Caps

FINRA considered setting a single transaction size dissemination cap applicable to all transactions in On-the-Run Nominal Coupons. However, since liquidity and trading volume varies across U.S. Treasury Securities with different maturities, FINRA, in consultation with the Treasury Department, determined that it is appropriate to propose dissemination caps that are calibrated to the maturity, liquidity, interest rate sensitivity, and trading concentration of the underlying U.S. Treasury Security.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

[57] FINRA also notes that covered depository institutions that report to TRACE pursuant to Federal Reserve Board requirements generally report transactions in U.S. Treasury Securities to TRACE by the end of the day. Thus, not all transactions in U.S. Treasuries reported to TRACE are subject to a one-hour timeframe, which is another factor that FINRA considered in connection with the proposed rule change.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–FINRA–2023–015 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–FINRA–2023–015. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–FINRA–2023–015 and should be submitted on or before November 30, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[58]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–24758 Filed 11–8–23; 8:45 am]

BILLING CODE 8011–01–P

[58] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35046; File No. 812–15392]

Kayne Anderson Energy Infrastructure Fund, Inc., et al.

November 6, 2023.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order (''Order'') under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to amend a previous order granted by the Commission that permits certain business development companies (''BDCs'') and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Kayne Anderson Energy Infrastructure Fund, Inc., Kayne Anderson Nextgen Energy & Infrastructure, Inc., Kayne Anderson BDC, Inc., Kayne DL 2021, Inc., Kayne Anderson Capital Income Partners (QP), L.P., Kayne Anderson Infrastructure Income Fund, L.P., Kayne Anderson Midstream Institutional Fund, L.P., Kayne Anderson MLP Fund, L.P., Kayne Equity Yield Strategies, L.P., Kayne Simplified Midstream, L.P., Kayne Senior Credit Fund III, L.P., Kayne Senior Credit III Offshore Fund, L.P., Kayne Liquid Credit Fund, L.P., KA Credit Advisors, LLC, KA Credit Advisors II, LLC, KA Fund Advisors, LLC, Kayne Anderson Capital Advisors, L.P., Kayne Anderson Fund Advisors, LLC, Kayne Senior Credit III Manager, L.P., Kayne Senior Credit Funding III, LLC, Kayne Senior Credit Funding III Offshore, LLC, Kayne Senior Credit III Mini-Master Fund, L.P., Kayne Senior Credit IV Manager, L.P., Kayne Senior Credit Fund IV, L.P., Kayne Senior Credit IV Mini-Master Fund, L.P., Kayne Senior Credit IV Offshore Fund, L.P.,

KAEFTX VII, LLC, KAEFTX VIII, LLC, KARE Manager Holdings, L.P., KPEIF II GP, LLC, HPK Partners, LLC, Kayne Anderson Energy Fund VII, L.P., Kayne Anderson Energy Fund VIII, L.P., Kayne Anderson Real Estate Debt IV, L.P., Kayne Anderson Renewable Energy Transition Fund, L.P., Kayne Anderson Renewable Infrastructure Partners, L.P., Kayne Private Energy Income Fund II, L.P., Kayne Private Energy Income Fund II–B, L.P., Kayne Senior Credit Funding IV, LLC, and Kayne Senior Credit Funding IV Offshore, LLC.

FILING DATES: The application was filed on October 3, 2022, and amended on June 9, 2023, and August 10, 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 SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on December 1, 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: David A. Hearth at *davidhearth@paulhastings.com.*

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, or Kyle R. Ahlgren, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' second amended and restated application, dated August 10, 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 *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. 2023–24840 Filed 11–8–23; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 12262]

30-Day Notice of Proposed Information Collection: Request for Advisory Opinion

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments up to December 11, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Andrea Battista, who may be reached at *BattistaAL@state.gov* or 202–992–0973.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Request for Advisory Opinion.
- *OMB Control Number:* 1405–0174.
- *Type of Request:* Extension.
- *Originating Office:* Directorate of Defense Trade Controls, Bureau of Political Military Affairs, Department of State (T/PM/DDTC).
- *Form Number:* DS–7786.
- *Respondents:* Any person. Primarily, individuals and companies registered with DDTC and engaged in the business of manufacturing, brokering, exporting, or temporarily importing defense hardware or defense technology data.
- *Estimated Number of Respondents:* 125.
- *Estimated Number of Responses:* 125.
- *Average Time per Response:* 2 hours.
- *Total Estimated Burden Time:* 250 hours.
- *Frequency:* On occasion.
- *Obligation to Respond:* Voluntary.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

The Directorate of Defense Trade Controls (DDTC), located in the Political-Military Affairs Bureau of the Department of State, has the principal mission of licensing the export and temporary import of defense articles or defense services as enumerated in the United States Munitions List (USML), and to ensure that the sale, transfer, or brokering of such items are in the interest of United States national security and foreign policy. Sections 120.22 and 129.9 of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130) may be used to request an advisory opinion or guidance on: whether DDTC would likely grant a license or other approval for the export of a particular defense article or defense service to a particular country (§ 120.22(a)); an interpretation of the requirements set forth in the regulations (§ 120.22(c)); whether an activity constitutes brokering within the scope of Part 129—Registration and Licensing of Brokers (§ 129.9(a)); or other guidance on other aspects of part 129 (§ 129.9(c)).

Except for determinations made with reference to ITAR § 129.9(a), advisory opinions are not binding on the Department of State and may not be used in future matters before the Department.

Any person may submit requests for advisory opinions to DDTC via mail to PM/DDTC, SA–1, 12th Floor, Directorate of Defense Trade Controls, Bureau of Political Military Affairs, U.S. Department of State, Washington, DC 20522.

Advisory Opinion requests, however, are preferred and processed more quickly when electronically submitted via the Defense Export Control and Compliance System (DECCS). DECCS users are also able to retrieve responses using this same system. DDTC staff members have defined the data fields which are most relevant and necessary for requests for Advisory Opinions and developed the means to accept this information from the industry in the secure system in DECCS.

Methodology

This information will be collected by mail or electronic submission to the Directorate of Defense Trade Controls.

Kevin E. Bryant,

Deputy Director, Office of Directives Management, Department of State.

[FR Doc. 2023–24826 Filed 11–8–23; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice: 12260]

Request for Information for the 2024 Trafficking in Persons Report

ACTION: Request for Information for the 2024 Trafficking in Persons Report.

SUMMARY: The Department of State (''the Department'') requests written information to assist in reporting on the degree to which the United States and foreign governments meet the minimum standards for the elimination of trafficking in persons (''minimum standards'') that are prescribed by the Trafficking Victims Protection Act of 2000, as amended (''TVPA''). This information will assist in the preparation of the Trafficking in Persons Report (''TIP Report'') that the Department submits annually to the U.S. Congress on governments' concrete actions to meet the minimum standards. Foreign governments that do not meet the minimum standards and are not making significant efforts to do so may be subject to restrictions on nonhumanitarian, nontrade-related foreign assistance from the United States, as defined by the TVPA. Submissions must be made in writing to the Office to Monitor and Combat Trafficking in Persons at the Department of State by February 1, 2024. Please refer to the **ADDRESSES**, *Scope of Interest,* and *Information Sought* sections of this Notice for additional instructions on submission requirements.

DATES: Submissions must be received by 5 p.m. EST on February 1, 2024.

ADDRESSES: Written submissions and supporting documentation may be submitted by the following method:

Email: tipreport@state.gov for submissions related to foreign governments and *tipreportUS@state.gov* for submissions related to the United States.

SUPPLEMENTARY INFORMATION:

1. Background

Scope of Interest: The Department requests information relevant to assessing the United States' and foreign governments' concrete actions to meet the minimum standards for the elimination of trafficking in persons during the reporting period (April 1, 2023–March 31, 2024). The minimum standards are listed below. Submissions must include information relevant to efforts to meet the minimum standards and should include, but need not be limited to, answering the questions in the *Information Sought* section below. Submissions need not include answers to all the questions; only those questions for which the submitter has direct professional experience should be answered, and that experience should be noted. For any critique or deficiency described, please provide a recommendation to remedy it. Note the country or countries that are the focus of the submission.

Submissions may include written narratives that answer the questions presented in this Notice, research, studies, statistics, fieldwork, training materials, evaluations, assessments, and other relevant evidence of local, state/provincial, and federal/central government efforts. To the extent possible, precise dates and numbers of officials or citizens affected should be included. Questions below seek to gather information and updates from the details provided and assessment on government efforts made in the 2023 TIP Report.

Furthermore, we request information on the government's treatment of ''underserved communities,'' including how the government may have systemically denied opportunities to a community to participate in aspects of economic, social, and civic life that has led to heighted risk to human trafficking or how the government's anti-trafficking response may have treated certain groups differently.

Written narratives providing factual information should provide citations of sources, and copies of and links to the source material should be provided. Please send electronic copies of the entire submission, including source material. If primary sources are used, such as research studies, interviews, direct observations, or other sources of quantitative or qualitative data, provide details on the research or data-gathering methodology and any supporting documentation. The Department only includes in the TIP Report information related to trafficking in persons as defined by the TVPA (Div. A, Pub. L. 106–386); it does not include, and is therefore not seeking, information on prostitution, migrant smuggling, visa fraud, or child abuse, unless such crimes also involve the elements of sex trafficking or forced labor.

Confidentiality: Please provide the name, phone number, and email address of a single point of contact for any submission. It is Department practice not to identify in the TIP Report information concerning sources to safeguard those sources. Please note, however, that any information submitted to the Department may be releasable pursuant to the provisions of the Freedom of Information Act or other applicable law. Submissions related to the United States will be shared with U.S. Government agencies, as will submissions relevant to efforts by other U.S. Government agencies.

Response: This is a request for information only; there will be no response to submissions. Remuneration for responses will not be provided. In order to expend appropriated funds, there must be specific authority to do so. The Department of State has no authority to expend funds for this purpose.

Definitions: The TVPA defines ''severe forms of trafficking in persons'' as:

- The recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act that is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age.
  - Persons under age 18 in commercial sex are trafficking in persons victims regardless of whether force, fraud, or coercion were involved.
- The recruitment, harboring, transportation, provision, or obtaining

of a person for labor or services, through the use of force, fraud, or coercion, for the purposes of involuntary servitude, peonage, debt bondage, or slavery.

○ Forced labor may take the form of domestic servitude, forced begging, forced criminal activity (*e.g.,* drug smuggling), and prison labor that is not the product of a conviction in a court of law.

• Children recruited or used as soldiers or for labor or services can be a severe form of human trafficking when the activity involves force, fraud, or coercion. Children may be victims regardless of gender.

The TIP Report: The TIP Report is the most comprehensive worldwide report assessing governments' efforts to combat trafficking in persons. It represents an annually updated global assessment of the nature and scope of trafficking in persons and the broad range of government actions to confront and eliminate it. The U.S. government uses the TIP Report to inform diplomacy, to encourage partnership in creating and implementing laws and policies to combat trafficking, and to target resources on prevention, protection, and prosecution programs. Worldwide, international organizations, foreign governments, and nongovernmental organizations (NGOs) use the TIP Report as a tool to examine where resources are most needed. Prosecuting traffickers, protecting victims, and preventing trafficking are the ultimate goals of the TIP Report and of the U.S Government's anti-trafficking policy.

The Department prepares the TIP Report with information from across the U.S. Government, foreign government officials, nongovernmental and international organizations, survivors of trafficking in persons, published reports, and research related to every region. The TIP Report focuses on concrete actions that governments take to fight trafficking in persons, including prosecutions, convictions, and sentences for traffickers, as well as victim identification and protection measures and prevention efforts. Each TIP Report narrative also includes prioritized recommendations for each country. These recommendations are used to assist the Department in measuring governments' progress from one year to the next and determining whether governments meet the minimum standards for the elimination of trafficking in persons or are making significant efforts to do so.

The TVPA creates a four-tier ranking system. Tier placement is based principally on the extent of concrete government action to combat trafficking. The Department first evaluates whether the government fully meets the TVPA's minimum standards for the elimination of trafficking. Governments that do so are placed on Tier 1. For other governments, the Department considers the extent of such efforts. Governments that are making significant efforts to meet the minimum standards are placed on Tier 2. Governments that do not fully meet the minimum standards and are not making significant efforts to do so are placed on Tier 3. Finally, the Department considers Watch List criteria and, when applicable, places countries on the Tier 2 Watch List. For more information, the 2023 TIP Report can be found at *www.state.gov/reports/2023-trafficking-in-persons-report.*

Since the inception of the TIP Report in 2001, the number of countries included and ranked has more than doubled; the 2023 TIP Report included 188 countries and territories. Around the world, the TIP Report and the promising practices reflected therein have inspired legislation, national action plans, policy implementation, program funding, protection mechanisms that complement prosecution efforts, and a stronger global understanding of this crime.

Since 2003, the primary reporting on the United States' anti-trafficking activities has been through the annual Attorney General's Report to Congress and Assessment of U.S. Government Activities to Combat Human Trafficking (''AG Report'') mandated by section 105 of the TVPA (22 U.S.C. 7103(d)(7)). Since 2010, the TIP Report, through a collaborative interagency process, has included an assessment of U.S. government anti-trafficking efforts in light of the minimum standards to eliminate trafficking in persons set forth by the TVPA.

II. Minimum Standards for the Elimination of Trafficking in Persons

The TVPA sets forth the minimum standards for the elimination of trafficking in persons as follows:

(1) The government of the country should prohibit severe forms of trafficking in persons and punish acts of such trafficking.

(2) For the knowing commission of any act of sex trafficking involving force, fraud, coercion, or in which the victim of sex trafficking is a child incapable of giving meaningful consent, or of trafficking which includes rape or kidnapping or which causes a death, the government of the country should prescribe punishment commensurate with that for grave crimes, such as forcible sexual assault.

(3) For the knowing commission of any act of a severe form of trafficking in persons, the government of the country should prescribe punishment that is sufficiently stringent to deter and that adequately reflects the heinous nature of the offense.

(4) The government of the country should make serious and sustained efforts to eliminate severe forms of trafficking in persons.

For purposes of (4) above, the following factors should be considered as indicia of serious and sustained efforts to eliminate severe forms of trafficking in persons:

(1) Whether the government of the country vigorously investigates and prosecutes acts of severe forms of trafficking in persons, and convicts and sentences persons responsible for such acts, that take place wholly or partly within the territory of the country, including, as appropriate, requiring incarceration of individuals convicted of such acts. For purposes of the preceding sentence, suspended or significantly reduced sentences for convictions of principal actors in cases of severe forms of trafficking in persons shall be considered, on a case-by-case basis, whether to be considered an indicator of serious and sustained efforts to eliminate severe forms of trafficking in persons. After reasonable requests from the Department of State for data regarding investigations, prosecutions, convictions, and sentences, a government which does not provide such data, consistent with a demonstrably increasing capacity of such government to obtain such data, shall be presumed not to have vigorously investigated, prosecuted, convicted or sentenced such acts.

(2) Whether the government of the country protects victims of severe forms of trafficking in persons and encourages their assistance in the investigation and prosecution of such trafficking, including provisions for legal alternatives to their removal to countries in which they would face retribution or hardship, and ensures that victims are not inappropriately incarcerated, fined, or otherwise penalized solely for unlawful acts as a direct result of being trafficked, including by providing training to law enforcement and immigration officials regarding the identification and treatment of trafficking victims using approaches that focus on the needs of the victims.

(3) Whether the government of the country has adopted measures to prevent severe forms of trafficking in persons, such as measures to inform and educate the public, including potential victims, about the causes and consequences of severe forms of trafficking in persons, measures to

establish the identity of local populations, including birth registration, citizenship, and nationality, measures to ensure that its nationals who are deployed abroad as part of a diplomatic, peacekeeping, or other similar mission do not engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, a transparent system for remediating or punishing such public officials as a deterrent, measures to prevent the use of forced labor or child labor in violation of international standards, effective bilateral, multilateral, or regional information sharing and cooperation arrangements with other countries, and effective policies or laws regulating foreign labor recruiters and holding them civilly and criminally liable for fraudulent recruiting.

(4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons and has entered into bilateral, multilateral, or regional law enforcement cooperation and coordination arrangements with other countries.

(5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

(6) Whether the government of the country monitors immigration and emigration patterns for evidence of severe forms of trafficking in persons and whether law enforcement agencies of the country respond to any such evidence in a manner that is consistent with the vigorous investigation and prosecution of acts of such trafficking, as well as with the protection of human rights of victims and the internationally recognized human right to leave any country, including one's own, and to return to one's own country.

(7) Whether the government of the country vigorously investigates, prosecutes, convicts, and sentences public officials, including diplomats and soldiers, who participate in or facilitate severe forms of trafficking in persons, including nationals of the country who are deployed abroad as part of a diplomatic, peacekeeping, or other similar mission who engage in or facilitate severe forms of trafficking in persons or exploit victims of such trafficking, and takes all appropriate measures against officials who condone or enable such trafficking. A government's failure to appropriately address public allegations against such public officials, especially once such officials have returned to their home countries, shall be considered inaction under these criteria. After reasonable requests from the Department of State for data regarding such investigations, prosecutions, convictions, and sentences, a government which does not provide such data, consistent with a demonstrably increasing capacity of such government to obtain such data, shall be presumed not to have vigorously investigated, prosecuted, convicted, or sentenced such acts.

(8) Whether the percentage of victims of severe forms of trafficking in the country that are non-citizens of such countries is insignificant.

(9) Whether the government has entered into effective, transparent partnerships, cooperative arrangements, or agreements that have resulted in concrete and measurable outcomes with—

(A) domestic civil society organizations, private sector entities, or international nongovernmental organizations, or into multilateral or regional arrangements or agreements, to assist the government's efforts to prevent trafficking, protect victims, and punish traffickers; or

(B) the United States toward agreed goals and objectives in the collective fight against trafficking.

(10) Whether the government of the country, consistent with the capacity of such government, systematically monitors its efforts to satisfy the criteria described in paragraphs (1) through (8) and makes available publicly a periodic assessment of such efforts.

(11) Whether the government of the country achieves appreciable progress in eliminating severe forms of trafficking when compared to the assessment in the previous year.

(12) Whether the government of the country has made serious and sustained efforts to reduce the demand for —

(A) commercial sex acts; and

(B) participation in international sex tourism by nationals of the country.

III. Information Sought Relevant to the Minimum Standards

Submissions should include, but need not be limited to, answers to relevant questions below for which the submitter has direct professional experience. Citations to source material should also be provided. Note the country or countries that are the focus of the submission. Please see the *Scope of Interest* section above for detailed information regarding submission requirements.

Overview

1. What were the government's major accomplishments in addressing human trafficking since April 1, 2023? In what significant ways have the government's efforts to combat trafficking in persons changed in the past year? How have new laws, regulations, policies, or implementation strategies (*e.g.,* substantive criminal laws and procedures, mechanisms for civil remedies, and victim-witness programs, generally and in relation to court proceedings) affected its anti-trafficking response?

2. Over the past year, what were the greatest deficiencies in the government's anti-trafficking efforts? What were the limitations on the government's ability to address human trafficking problems in practice?

3. Please provide additional information and/or recommendations to improve the government's anti-trafficking efforts overall.

4. Please highlight effective strategies and practices that other governments could consider adopting.

Prosecution

5. Please provide observations regarding the implementation of existing laws, policies, and procedures. Are there gaps in anti-trafficking legislation that could be amended to improve the government's response? Are there any government policies that have undermined or otherwise negatively affected anti-trafficking efforts within that country?

6. Do government officials understand the nature of all forms of trafficking? If not, please provide examples of misconceptions or misunderstandings. Did the government effectively provide or support anti-trafficking trainings for officials? If not, how could they be improved?

7. Please provide observations on overall anti-trafficking law enforcement efforts and the efforts of police and prosecutors to pursue trafficking cases. Is the government equally vigorous in pursuing forced labor and sex trafficking, internal and transnational trafficking, and crimes that involve its own nationals or foreign citizens? Were anti-trafficking laws equitably enforced, or were certain communities disproportionately affected?

8. Please note any efforts to investigate and prosecute suspects for knowingly soliciting or patronizing a

sex trafficking victim to perform a commercial sex act.

9. Does law enforcement pursue trafficking cases that would hold accountable private employers or corporations for forced labor in supply chains?

10. Do judges appear appropriately knowledgeable and sensitized to trafficking cases? Do they implement and encourage trauma-informed practices in their courts?

11. Were there allegations of official complicity in trafficking crimes, via contacts, media, or other sources, including of state-sponsored forced labor? If so, what measures did the government take to end such practices? What proactive measures did the government take to prevent official complicity in trafficking in persons crimes? How did the government respond to reports of complicity that arose during the reporting period, including investigations, prosecutions, convictions, and sentencing of complicit officials? Were these efforts sufficient?

12. Is there evidence that nationals of the country deployed abroad as part of a diplomatic, peacekeeping, or other similar mission have engaged in or facilitated trafficking, including in domestic servitude? Has the government vigorously investigated, prosecuted, convicted, and sentenced nationals engaged in these activities?

Protection

13. Did the government make a coordinated, proactive effort to identify victims of all forms of trafficking? If there were any new (or changes to preexisting) formal/standard procedures for screening for trafficking, including of individuals in immigration detention or removal proceedings, and for victim referral to protection services, were those procedures sufficient and how did the government implement them? Did officials effectively coordinate among one another and with relevant NGOs to conduct screenings and refer victims to care? Did the government deploy mechanisms (*e.g.,* written procedures, policies, bureaucratic structures, survivor engagement protocols, etc.) to ensure it equitably administered victim identification and protection measures?

14. If commercial sex is legalized or decriminalized in the country, how did health officials, labor inspectors, or police identify trafficking victims among persons involved in commercial sex? If commercial sex is illegal, did the government proactively identify trafficking victims during law enforcement operations or other encounters with commercial sex establishments?

15. If the government operates or funds any trafficking-specific hotlines (including those run by NGOs), did calls to those hotlines lead to victim identification, victim referral to care, and/or criminal investigations?

16. Were there any new (or changes to preexisting) services available for victims and survivors (legal, medical, food, shelter, interpretation, mental health care, employment, training, etc.)? If NGOs provide the services, does the government adequately support their work either financially or otherwise? Did all victims and survivors of both labor and sex trafficking—regardless of citizenship, gender identity, racial/ethnic identity, sexual orientation, religious affiliation, and physical ability—receive the same quality and level of access to services?

17. What was the overall quality of victim care? How could victim services be improved? Are services victim-centered and trauma-informed? Were services linked to whether a victim assisted law enforcement or participated in a trial, or whether a trafficker was convicted? Could victims choose independently whether to enter a shelter, and could they leave at will if residing in a shelter? Could victims seek employment and work while receiving assistance?

18. Where were child victims placed (*e.g.,* in shelters, foster care, or juvenile justice detention centers), and what kind of specialized care did they receive?

19. What is the level of cooperation, communication, and trust between service providers and law enforcement?

20. Were there means by which victims could obtain restitution from defendants in criminal cases or file civil suits against traffickers for damages, and did this happen in practice? Did prosecutors request and/or courts order restitution in all cases where it was required, and if not, why?

21. Please provide observations on trafficking victims and survivors' ability to access justice, as they define it, and the treatment of survivors throughout the criminal legal process. How did the government encourage victims to assist in the investigation and prosecution of trafficking, and did it do so in a trauma-informed way? How did the government protect victims during the trial process and ensure victims were not re-traumatized during participation in the process? If a victim was a witness in a court case, was the victim permitted to obtain employment, move freely about the country, or leave the country pending trial proceedings? In what ways could the government increase support for victims in prosecutions against the traffickers?

22. Did the government provide, through a formal policy or otherwise, temporary or permanent residency status, or other relief from deportation, for foreign national victims of human trafficking who may face retribution or hardship in the countries to which they would be deported? Were foreign national victims given the opportunity to seek legal employment while in this temporary or permanent residency? Were such benefits linked to whether a victim assisted law enforcement, whether a victim participated in a trial, or whether there was a successful prosecution? Does the government repatriate victims who wish to return home or assist with third country resettlement? Are victims awaiting repatriation or third country resettlement offered services? Are victims indeed repatriated, or are they deported?

23. Does the government effectively assist its nationals exploited abroad? Does the government work to ensure victims receive adequate assistance and support for their repatriation while in destination countries? Does the government provide adequate assistance to repatriated victims after their return to their countries of origin, and if so, what forms of assistance?

24. Does the government arrest, detain, imprison, or otherwise punish trafficking victims (whether or not identified as such by authorities) for unlawful acts committed as a direct result of being trafficked (forgery of documents, illegal immigration, unauthorized employment, prostitution, theft, or drug production or transport, etc.)? If so, do these victims disproportionately represent a certain gender, race, ethnicity, or other group or particular type of trafficking?

Prevention

25. What efforts has the government made to prevent human trafficking? Did the government enforce any policies that further marginalized communities already overrepresented among trafficking victims, increasing their risk to human trafficking? If so, did it take efforts to address those policies?

26. If the government had a national action plan to address trafficking, how was it implemented in practice? Were NGOs and other relevant civil society stakeholders consulted in the development and implementation of the plan?

27. Please describe any government-funded anti-trafficking information or education campaigns or training, whether aimed at the public or at

specific sectors or stakeholders/actors. What strategies did the campaigns employ to ensure messaging and images did not legitimize and/or perpetuate harmful or racialized narratives and/or stereotypes about what victims, survivors, and perpetrators look like? Were campaign materials readily available, cost-free, and accessible in various languages, including braille? Does the government provide financial support to NGOs working to promote public awareness?

28. Did the government seek and include the input of survivors in crafting its anti-trafficking laws, regulations, policies, programs, or in their implementation? If so, did the government take steps to ensure input was received and incorporated from a diverse group of survivors?

29. How did the government regulate, oversee, and screen for trafficking indicators in the labor recruitment process, including for both licensed and unlicensed recruitment and placement agencies, individual recruiters, sub-brokerages, and microfinance lending operations? Did the government prohibit (in any context) charging workers recruitment fees and prohibit the recruitment of workers through knowingly fraudulent job offers (including misrepresenting wages, working conditions, location, or nature of the job), contract switching, and confiscating or otherwise denying workers access to their identity documents? If there are laws or regulations on recruitment, did the government effectively enforce them? Did the government allow migrant workers to change employers in a timely manner without obtaining special permissions?

30. Did the government coordinate with other governments (*e.g.,* via bilateral agreements with migrant labor sending or receiving countries) on safe and responsible labor recruitment that included prevention measures to target known trafficking indicators? To what extent were these implemented? Are workers (both nationals of the country and foreign nationals) in all industries (*e.g.,* domestic work, agriculture, etc.) equally and sufficiently protected under existing labor laws?

31. Did government policies, regulations, or agreements relating to migration, labor, trade, and investment facilitate vulnerabilities to, or incidence of, forced labor or sex trafficking? If so, what actions did the government take to ensure that its policies, regulations, and agreements relating to migration, labor, trade, border security measures, and investment did not facilitate trafficking?

32. Did the government take tangible action to prevent forced labor in domestic or global supply chains? Did the government make any efforts to prohibit and prevent trafficking in the supply chains of its own public procurement?

33. If the government has entered into bilateral, multilateral, or regional anti-trafficking information-sharing and cooperation arrangements, are they effective and have they resulted in concrete and measurable outcomes? If not, why?

34. Did the government provide assistance to other governments in combating trafficking in persons through trainings or other assistance programs?

35. What measures has the government taken to reduce the participation by nationals of the country in international and domestic child sex tourism?

Territories and Semi-Autonomous Regions

36. Please provide any information about trafficking trends and government anti-trafficking efforts in non-sovereign territories and semi-autonomous regions to prosecute traffickers, identify and provide services to victims, and prevent trafficking.

Trafficking Profile

37. Were there any changes to the country's trafficking situation, including the forms of trafficking that occur, industries and sectors in which traffickers exploit victims, countries/regions in which traffickers recruit victims, locations and regions in which trafficking occurs, and recruitment methods? Are citizens of the country identified as victims of human trafficking abroad? As COVID–19-related restrictions have lifted in many parts of the world, were there additional changes in trafficking trends?

38. What groups, including underserved communities, are at particular risk of human trafficking? Underserved communities are populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life. This term may include, but is not limited to, women and girls, persons with disabilities, indigenous peoples, people of African descent, racial and ethnic minorities, refugees and internally displaced people, religious minorities, LGBTQI+ persons, rural residents, migrants, as well as those who are otherwise adversely affected by persistent poverty or inequality.

39. Chinese/Cuban/North Korean workers: Are any of these populations subjected to or at high risk of forced labor in the country as part of government-to-government agreements and/or in foreign government-affiliated projects?

40. Please provide any information about trafficking trends, general numerical data on victims identified, or risk factors stemming from climate-related change or disasters, as well as any efforts to mitigate these vulnerabilities; the ongoing armed conflict following Russia's full-scale invasion of Ukraine; and the use of technology to recruit and exploit victims.

Child Soldiering

41. Using the definition of ''child soldier'' as defined by the Child Soldiers Prevention Act of 2008 (CSPA), describe instances, cases, and reports, including anecdotal reports, of:

a. Use of any person under the age of 18 in direct hostilities as a member of governmental armed forces, police, or other security forces;

b. Conscription or forced recruitment of persons under the age of 18 into governmental armed forces, police, or other security forces;

c. Voluntary recruitment of any person under 15 years of age into governmental armed forces, police, or other security forces;

d. Recruitment (forced or voluntary) or use in hostilities of persons under the age of 18 by armed groups distinct from the armed forces of a state.

e. Abuse of male and female children recruited by governmental armed forces, police, or other security forces, and government-supported armed groups (*e.g.,* sexual abuse or use for forced labor). Describe the manner and age of conscription, noting differences in treatment or conscription patterns based on gender.

42. Did the government provide support to an armed group that recruits and/or uses child soldiers? What was the extent of the support (*e.g.,* in-kind, financial, training, etc.)? Where did the provision of support occur (within the country or outside of the country)? In cases where the government was included on the CSPA list in 2023 based on its support to non-state armed groups that recruit and/or use child soldiers, describe whether the government took steps to pressure the group to cease its recruitment or use of child soldiers, publicly disavow the group's recruitment or use of child soldiers, or cease its support to that group.

43. Describe any government efforts to prevent or end child soldier recruitment or use, including efforts to disarm, demobilize, and reintegrate former child soldiers. (*i.e.,* enacting any laws or regulations, implementing a United Nations Action Plan or Roadmap, specialized training for officials, procedures for age verification, etc.)

Cynthia D. Dyer,

Ambassador-at-Large, Office to Monitor and Combat Trafficking in Persons, Department of State.

[FR Doc. 2023–24781 Filed 11–8–23; 8:45 am]

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SURFACE TRANSPORTATION BOARD

[Docket No. FD 36727]

CSX Transportation, Inc.—Acquisition and Operation—Rail Line of Meridian & Bigbee Railroad, L.L.C.

AGENCY: Surface Transportation Board.

ACTION: Decision No. 1; Notice of acceptance of primary application; Notice of acceptance of related filings for consideration; Issuance of procedural schedule.

SUMMARY: The Surface Transportation Board (Board) is accepting the primary application (Application) filed October 6, 2023, by CSX Transportation Inc. (CSXT), and accepting for consideration two related filings. The Application seeks Board approval for CSXT to acquire and operate the assets comprising the rail line of Meridian & Bigbee Railroad, L.L.C. (MNBR) that runs approximately 93.68 miles between the cities of Burkville, Ala., and Myrtlewood, Ala., in Lowndes, Dallas, Wilcox and Marengo Counties (the Eastern Line). This proposal is referred to as the ''Proposed Transaction.'' The related filings are notices of exemption seeking Board approval of transactions involving trackage rights of other carriers (Related Transactions).

DATES: The effective date of this decision is November 3, 2023. CSXT is directed to supplement its Application as discussed in this decision by November 21, 2023. Any person who wishes to participate in this proceeding as a Party of Record must file, no later than November 27, 2023, a notice of intent to participate. All comments, protests, requests for conditions, and any other evidence and argument in opposition to the Application and related filings, including filings by the U.S. Department of Justice (DOJ) and the U.S. Department of Transportation (DOT), must be filed by December 11, 2023. Responses to comments, protests, requests for conditions, other opposition, and rebuttal in support of the Application or related filings must be filed by January 8, 2023. *See* Appendix (Procedural Schedule). A final decision in this matter will be served no later than 45 days after the date on which the evidentiary proceedings conclude, subject to the completion of environmental review. Further procedural orders, if any, would be issued by the Board.

ADDRESSES: Any filing submitted in this proceeding should be filed with the Board via e-filing on the Board's website. In addition, one copy of each filing must be sent (and may be sent by email only if service by email is acceptable to the recipient) to each of the following: (1) Secretary of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) Attorney General of the United States, c/o Assistant Attorney General, Antitrust Division, Room 3109, Department of Justice, Washington, DC 20530; (3) CSXT's representative, Peter W. Denton, Steptoe & Johnson LLP, 1330 Connecticut Ave. NW, Washington, DC 20036; (4) AGR's and MNBR's representative, Justin J. Marks, Clark Hill PLC, 1001 Pennsylvania Ave. NW, Suite 1300 South, Washington, DC 20004; and (5) any other person designated as a Party of Record on the service list.

FOR FURTHER INFORMATION CONTACT: Jonathon Binet at (202) 245–0368. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: CSXT seeks the Board's prior review and authorization pursuant to 49 U.S.C. 11323–25 and 49 CFR part 1180 to acquire from MNBR and operate the Eastern Line. (Appl. 1.) The Eastern Line consists of two segments totaling approximately 93.68 miles: (1) extending from milepost XXB 189.00 near Burkville to milepost XXB 222.00 at Western Junction, a distance of about 30.22 miles;[1] and (2) extending from a connection with the first segment at Western Junction, milepost OOR 716.25 to milepost ORS 779.71 near Myrtlewood, a distance of about 63.46 miles. (*Id.*) The Eastern Line includes Selma Yard, at Selma, Ala., and the following stations: Myrtlewood, Linden, Thomaston, Safford, Orville, Beloit, Selma, Industrial Lead, Tyler, Benton, Whitehall, and Burkville. (*Id.*) Two other carriers, Alabama Gulf Coast Railway LLC (AGR) and Norfolk Southern Railway (NSR) connect with the Eastern Line. AGR's line connects to the Eastern Line at Linden, Ala. (*Id.* at 5.) AGR operates over an approximately 10-mile portion of the Eastern Line between Linden and Myrtlewood to interchange traffic with MNBR.[2] (*Id.*) NSR connects to the Eastern Line at Selma, where it interchanges traffic with MNBR. (*Id.* at 12.)

Prior to 2003, CSXT and its predecessors owned and operated the Eastern Line. (*Id.* at 2.) In 2003, CSXT entered into a Land Lease Agreement (2003 Agreement) with M&B Railroad, L.L.C. (M&B), which was later renamed MNBR,[3] whereby CSXT: (1) sold to M&B the tracks, rails, ties, ballast, other track materials, switches, crossings, bridges, culverts, crossing warning devices and any and all improvements or fixtures affixed to the Eastern Line (Assets); (2) leased to M&B for a 20-year term the real property underlying the Eastern Line; and (3) granted M&B incidental overhead trackage rights over approximately 14 miles of CSXT trackage between the eastern end of the Eastern Line at Burkville and Montgomery, Ala., to effectuate interchange between M&B and CSXT at CSXT's S and N Yard and Chester Yard at Montgomery. (*Id.*) The 2003 Agreement will expire at the end of its 20-year term, on November 14, 2023, thereby ending MNBR's leasehold interest. (*Id.*) The 2003 Agreement provides that CSXT may reacquire the Assets from MNBR upon expiration of MNBR's leasehold interest. (*Id.*) The parties have entered an agreement for CSXT to reacquire the Assets from MNBR (Transaction Agreement).[4] (*Id.* at 2–3.) Because MNBR's lease is set to expire during this proceeding, CSXT and MNBR have agreed to extend the 2003 Agreement until the first to occur of: (1) the closing date of the transactions contemplated under the Transaction Agreement; or (2) the ''Drop Dead Date,'' as defined in the Transaction Agreement. (*Id.*)

In Docket No. AB 1335X, MNBR filed a verified notice of exemption under the

[1] The Board notes that, for the Burkville-Western Junction segment, the difference between the milepost numbers is 33 but the claimed distance of the segment is 30.22 miles. CSXT is directed to confirm that 30.22 miles is the correct distance of this segment or to provide a correction. CSXT shall submit this information by November 21, 2023 when it submits the supplemental information discussed below.

[2] AGR and MNBR are both controlled by Genesee & Wyoming Inc. (GWI). *See Genesee & Wyo. Inc.—Control—RailAmerica, Inc.,* FD 35654, slip op. at 3 n.7 (STB served Dec. 20, 2012).

[3] GWI acquired control of M&B in 2005 and later changed its name to MNBR. *See Genesee & Wyo. Inc.—Control Exemption—Rail Partners, L.P.,* FD 34708 (STB served June 24, 2005).

[4] The Transaction Agreement is attached to the Application as Exhibit 2.

class exemption at 49 CFR part 1152, subpart F, to discontinue overhead trackage rights along an approximately 14-mile rail line extending between milepost XXB189 near Burkville, Ala., and Montgomery Yard in Montgomery, Ala. In Docket No. FD 36724, Alabama Gulf Coast Railway LLC (AGR) filed a verified notice of exemption to acquire overhead trackage rights from CSXT over approximately 9.5 miles of the Eastern Line running between milepost 59.9 at Linden, Ala., and milepost 50.4 near Myrtlewood.[5]

The Board finds that the Application is complete and that the Transaction is a minor transaction based upon the preliminary determination that the Proposed Transaction's anticipated contribution to the public interest in meeting significant transportation needs clearly outweighs any potential anticompetitive effects. 49 CFR 1180.2(b), (c). The Board makes this preliminary determination based solely on the evidence presented in the Application. The Board emphasizes that this is not a final determination and may be revisited or rebutted by subsequent filings and evidence submitted into the record for this proceeding. The Board also adopts a procedural schedule for consideration of the Application and directs CSXT to file certain supplemental information.

Finally, an Environmental Assessment (EA) will be prepared to comply with the Board's obligations under the National Environmental Policy Act, 42 U.S.C. 4321–4370m–11 (NEPA), and related environmental laws.[6]

CPKC Transaction. In addition to the Eastern Line, MNBR owns and operates a rail line that connects to the Eastern Line at Myrtlewood and extends west to Meridian, Miss. (Western Line), where it connects with Canadian Pacific Railway Company (CPKC). (*Id.* at 3.) CPKC has filed an application seeking Board authority to acquire and operate over the Western Line (CPKC Transaction). CPKC Appl. 2, Oct. 6, 2023, *Canadian Pac. Kan. City Ltd.—Acquis. & Operation—Certain Rail Line of Meridian & Bigbee R.R. in Lauderdale Cnty., Miss., & Choctaw & Marengo Cntys., Ala.,* FD 36732 et al. MNBR serves local traffic on the Eastern Line and the Western Line and operates over the two rail lines to move overhead traffic between CSXT at Montgomery[7] and CPKC at Meridian. (Appl. at 3.) The Proposed Transaction contemplates CSXT taking over MNBR's operations on the Eastern Line and MNBR ceasing all operations on the Eastern Line. (*Id.*) The CPKC Transaction contemplates CPKC acquiring and operating over the Western Line but MNBR continuing to provide local service on the Western Line. CPKC Appl., Ex. 2, Retained Trackage Rights Agreement, art. 2.1, Oct. 6, 2023, *Canadian Pac. Kan. City Ltd.,* FD 36732 et al. If both the Proposed Transaction and the CPKC Transaction are consummated, overhead traffic between Meridian and Montgomery will be directly interchanged between CSXT and CPKC at Myrtlewood, eliminating MNBR as an intermediate carrier for this overhead traffic. (Appl. at 13.)

CSXT states that the Proposed Transaction and the CPKC Transaction are not contingent on each other ''in that the [Proposed] Transaction could proceed regardless of whether the CPKC Transaction is consummated.'' (*Id.* at 6.) According to CPKC, the CPKC Transaction is contingent on CSXT acquiring and resuming operations on the Eastern Line. CPKC Appl. 2, Oct. 6, 2023, *Canadian Pac. Kan. City Ltd.,* FD 36732 et al. CSXT asks that the Board examine the Proposed Transaction independently of the CPKC Transaction. (*Id.* at 8.) The Board declines to do so for purposes of this decision. CSXT states only that the Proposed Transaction ''could proceed'' if the CPKC Transaction is not consummated, not that it necessarily will do so. Thus, it is not clear that the Proposed Transaction is in fact independent of the CPKC Transaction. Moreover, because the CPKC Transaction is specifically dependent upon consummation of the Proposed Transaction, the CPKC Transaction, and the effects that flow from it, would themselves be effects of the Proposed Transaction and must therefore be considered in determining whether the Proposed Transaction is minor or significant under 49 CFR 1180.2.

Financial Arrangements. According to CSXT, no new securities would be issued in connection with the Proposed Transaction. (*Id.* at 22.) CSXT states that the purchase price would be paid from cash on hand. (*Id.*)

Passenger Service Impacts. CSXT states that there are no current passenger or commuter operations on the Eastern Line and there would be no impact on commuter or other passenger service. (*Id.,* 22–A, V.S. Adams 15.)

Discontinuances/Abandonments. CSXT states that it does not anticipate abandoning any rail lines as a result of the Proposed Transaction. (*Id.,* Ex. 15, Operating Plan 17.) As noted above, MNBR seeks Board authority to discontinue trackage rights over CSXT's line between Burkville and Montgomery if the Proposed Transaction is approved.

Public Interest Considerations. CSXT asserts that if the Board approves the Proposed Transaction and the CPKC Transaction, it will create a direct CSXT–CPKC interchange at Myrtlewood, which will result in more efficient movement of existing CSXT–CPKC interchange traffic between the Eastern United States (CSXT) and the Western U.S. and Mexico (CPKC) without any reduction in competition. (Appl. 13.) CSXT claims the Proposed Transaction is an end-to-end transaction that will not result in any loss of competitive options available to MNBR-served shippers. (*Id.* at 11–12.) According to CSXT, the largest traffic group on the Eastern Line is overhead traffic to or from CSXT on which MNBR functions as a bridge carrier and that the Proposed Transaction will simply shift the interchange point for this traffic from Montgomery to Myrtlewood. (*Id.* at 13, Ex. 22–B, Reishus V.S. 11.) CSXT further states that most local traffic on MNBR today moves to CSXT and such movements will be unaffected by the CSXT Transaction. (*Id.,* Ex. 22–A, V.S. Adams 13.) In addition, CSXT states that the short line carriers that connect to the Eastern Line (MNBR and AGR) will not lose a connecting alternative. (*Id.* at 11.) It contends that the CSXT network fails to reach locations or regions served by AGR or reached through CPKC at Meridian (or involving Western Line shippers) and cannot plausibly provide competing single-line service for existing interline traffic with these carriers; hence, it has no incentive to foreclose those shippers' use of AGR and CPKC for interchange service. (Id., Ex. 22–B, V.S. Reishus 13.) CSXT notes that local shippers today have the ability to move on MNBR to interchange with NSR at Selma and that NSR and CSXT compete at a variety of locations across the eastern United States. (*Id.,* Ex. 22–A, V.S. Adams 11, Ex. 22–B, V.S. Reishus 13.) However, CSXT states that MNBR's shippers use this option only for a small volume of traffic and CSXT

[5] This decision embraces the following dockets: *Alabama & Gulf Coast Railway—Trackage Rights Exemption—CSX Transportation, Inc.,* Docket No. FD 36724; *Meridian & Bigbee Railroad—Discontinuance of Incidental Overhead Trackage Rights—in Lowndes & Montgomery Counties, Ala.,* Docket No. AB 1335X.

[6] The Board is required to accommodate the requirements of NEPA in its decision-making. Therefore, the Board will not issue a final decision on the merits of the Application until the environmental review is complete, including preparation of an EA and opportunity for public comment and participation during the EA process. *See* Environmental Matters section below.

[7] As noted above, MNBR operates between Burkville (the eastern end of the Eastern Line) and Montgomery pursuant to overhead trackage rights.

is committing to keeping the gateway with NSR at Selma open on commercially reasonable terms and asking the Board to impose this commitment as a condition to approval of Proposed Transaction. (*Id.,* Ex. 22–A, V.S. Adams 13.) CSXT further states that one MNBR shipper currently moves traffic both to NSR at Selma and to CSXT at Montgomery. (*Id.*) According to CSXT, it will commit to that customer to continue to provide service to NSR at Selma at current rates, subject to reasonable cost escalation, for five years and on commercially reasonable terms thereafter. (*Id.,* Ex. 22–A, V.S. Adams 13–14.)

CSXT claims that the Proposed Transaction will have public benefits that are ''large, important, and obvious.'' (Appl. 14–15.) CSXT states that for the traffic that currently moves to or from CSXT, eliminating MNBR as an intermediate carrier will reduce costs and streamline the movement of traffic. (*Id.,* Ex. 22–A, V.S. Adams 4.) In addition, CSXT states that certain CSXT–CPKC traffic is interchanged at less efficient gateways—such as New Orleans, La., Brookwood, Ala., and East St. Louis, Mo.—and that it projects that a portion of this traffic will be diverted to the new CSXT–CPKC Myrtlewood gateway if both the Proposed Transaction and the CPKC Transaction are approved. (*Id.* at 13.) CSXT further claims that establishing a new, more efficient gateway between CSXT and CPKC at Myrtlewood will allow each carrier to compete more effectively with other carriers and modes in the region and create redundancy in the southern portion of CSXT's network that will give CSXT a greater ability to respond to unexpected network problems. (*Id.* at 13, 16.)

Additionally, CSXT states that once the transaction is consummated, it will make significant investments in the track, roadbed, bridges, warning devices, and wayside detectors on the Eastern Line, which will increase safety, reliability, and train speeds. (*Id.* at 15.) In addition, CSXT claims that acquisition of the Eastern Line will support CSXT's ongoing efforts to attract new industrial development to its rail network and will give CSXT's shippers expanded transportation options, which CSXT hopes will lead to further rail traffic growth. (*Id.*)

Time Schedule for Consummation. CSXT seeks to consummate the Proposed Transaction on or soon after the effective date of a Board decision authorizing the Proposed Transaction, subject to the completion of any required labor implementing agreements. (*Id.* at 20.) CSXT anticipates that the Related Transactions will be consummated concurrently with the Proposed Transaction. (*Id.*)

Environmental Impacts. According to CSXT, the Proposed Transaction will have no adverse impacts on the environment. (*Id.,* Ex. 4, Env't Info. 8.) CSXT projects that if the Proposed Transaction and the CPKC Transaction are both consummated, there will be increases in gross ton miles and yard activity that exceed the Board's thresholds for environmental review on the Eastern Line and on the Burkville-Montgomery segment, but that there will be no additional trains as a result of the transactions in the next five years. (*Id.,* Ex. 4, Env't Info. 6–7, Ex. 22–A, V.S. Adams 14.) CSXT asserts that improvements in train speeds will counteract any effect of increases in train length. (*Id.* at Ex. 22–A, V.S. Adams 14.) CSXT also claims that the Proposed Transaction will have environmental benefits because the planned infrastructure improvements will result in increasing safety, reliability, and train speeds and will remove truck traffic from congested highways. (*Id.,* Ex. 4, Env't Info. 9.) For the reasons discussed below, an EA will be prepared because the Board's thresholds for environmental review will be exceeded if the Proposed Transaction and the CPKC Transaction are both consummated. *See* Environmental Matters section.

Historic Preservation Impacts. According to CSXT, under 49 CFR 1105.8(b)(1), the Proposed Transaction and the Related Transactions are exempt from historic preservation reporting requirements. CSXT states that rail operations will continue on the Eastern Line and the Burkville-Montgomery segment, and that further approval will be required to abandon any service. CSXT further states that there are no plans to dispose of or alter properties subject to Board jurisdiction that are fifty years old or older. Therefore, based on the current record, no historic review is required.

Labor Impacts. CSXT asserts that the Proposed Transaction will not have any adverse impact on labor. (*Id.,* Ex. 22–A, V.S. Adams 15.) CSXT states that it will be employing more people on the Eastern Line as a result of the Proposed Transaction. (*Id.,* Ex. 22–A, V.S. Adams 16.) According to CSXT, CSXT, and MNBR will not integrate any of their forces and CSXT employees will assume the responsibility for maintaining, dispatching, and operating CSXT trains over the Eastern Line. (*Id.* at 25.) CSXT further states that it understands that MNBR intends to abolish seven transportation positions, four engineering positions, and one mechanical position as a result of the Proposed Transaction. (*Id.* at 26.) According to CSXT, in addition to possible employment with CSXT, MNBR, or other GWI-controlled carriers may have other positions for employees who currently occupy these positions. (*Id.*) In addition, CSXT states that AGR employees will continue to operate AGR trains over the Eastern Line between Linden and Myrtlewood as they do today pursuant to a new trackage rights agreement with CSXT. (*Id.*)

CSXT is requesting that the employee protective conditions established in *New York Dock Railway—Control—Brooklyn Eastern District Terminal,* 360 I.C.C. 60, *aff'd New York Dock Railway* v. *United States,* 609 F.2d 83 (2d Cir. 1979), *as modified by Wilmington Terminal Railroad—Purchase & Lease—CSX Transportation Inc.,* 6 I.C.C.2d 799, 814–26 (1990), *aff'd sub nom. Railway Labor Executives' Association* v. *Interstate Commerce Commission,* 930 F.2d 511 (6th Cir. 1991), be imposed on the Proposed Transaction to address any adverse impact to current employees. (Appl. at 26.)

Related Filings. In connection with the Related Transactions, MNBR, and AGR each filed a notice of exemption.[8]

MNBR Discontinuance: In Docket No. AB 1335X, MNBR filed a verified notice of exemption under the class exemption at 49 CFR part 1152, subpart F, to discontinue overhead trackage rights along an approximately 14-mile rail line extending between milepost XXB189 near Burkville and Montgomery Yard in Montgomery. MNBR states that it does not intend to consummate its discontinuance authority unless and until CSXT consummates the Proposed Transaction. If consummated, MNBR and CSXT will interchange traffic at Myrtlewood, rather than at Montgomery. According to MNBR, its proposed discontinuance qualifies for the Board's two-year out-of-service class exemption procedures because it seeks to discontinue overhead trackage rights and has not provided any local service within the past two years. However, another carrier, CSXT, has been providing local service over the same line during that two-year period. In *Austin Area Terminal Railroad—Discontinuance of Service Exemption—in Bastrop, Burnet, Lee, Llano, Travis, and Williamson Counties, Tex.,* AB 578X (STB served Nov. 3, 2023), the Board recently reaffirmed that to qualify

[8] Also, on October 6, 2023, CSXT filed a motion for protective order in Docket No. FD 36727, which was granted by decision served on October 11, 2023.

for the two-year-out-of-service class exemption a carrier must certify that *no local traffic* has moved over the line for two years, not just its own traffic. Accordingly, the Board upheld a prior decision that rejected a verified notice because the required certification concerning the absence of local traffic on the line was deficient. *Id.* at 1. The Board noted, however, that carriers may petition the Board for individual exemptions under 49 U.S.C. 10502(a) and granted on its own motion an individual exemption authorizing the discontinuance. *Id.* at 4–5.

Although, per *Austin Area Terminal Railroad,* MNBR may not proceed under the Board's two-year out-of-service class exemption procedures, during consideration of the broader Proposed Transaction, the Board will nonetheless consider whether to grant an individual exemption for this discontinuance authority on its own motion. To that end, MNBR may supplement the record in Docket No. AB 1335X with any additional information and argument it would like the Board to consider in determining whether the proposed discontinuance meets the exemption standard of 49 U.S.C. 10502(a). Any supplement filed by MNBR in Docket No. AB 1335X will be due by November 21, 2023.

AGR Trackage Rights. In Docket No. FD 36724, AGR filed a verified notice of exemption under 49 CFR 1180.2(d)(7) to acquire overhead trackage rights from CSXT over approximately 9.5 miles of rail line running between milepost 59.9 at Linden, and milepost 50.4 near Myrtlewood. AGR states that it intends to consummate the transaction either on the effective date of its notice or upon the consummation of the Proposed Transaction, whichever occurs later. AGR intends to use its overhead trackage rights for the interchange of traffic with MNBR, CSXT, and other carriers at Myrtlewood.

Primary Application and Related Filings. The Board finds that the Proposed Transaction would be a ''minor transaction'' under 49 CFR 1180.2(c), and the Board accepts the Application because it is in substantial compliance with the applicable regulations governing minor transactions. *See* 49 U.S.C. 11321–26; 49 CFR part 1180. Additionally, the Board is also accepting for consideration the related verified notice of exemption filed in Docket No. FD 36724,[9] which is also in compliance with the applicable regulations. As discussed below, the Board will require CSXT to supplement the record and reserves the right to require further supplemental information as necessary to complete the record.

When a transaction does not involve the merger or control of two or more Class I railroads, its classification will differ depending upon whether the transaction would have ''regional or national transportation significance.'' 49 U.S.C. 11325. Under 49 CFR 1180.2, a transaction that does not involve two or more Class I railroads is to be classified as ''minor''—and thus not having regional or national transportation significance—if a determination can be made that either: (1) the transaction clearly will not have any anticompetitive effects, or (2) any anticompetitive effects will clearly be outweighed by the transaction's anticipated contribution to the public interest in meeting significant transportation needs. A transaction not involving the control or merger of two or more Class I railroads is to be classified as ''significant'' if neither of these determinations can be made.

The Board finds the Proposed Transaction to be a ''minor transaction'' because it appears from the face of the Application that the efficiency and other public interest benefits would clearly outweigh the potential anticompetitive effects of the transaction. Shippers that are currently served by MNBR would be served by CSXT post-transaction and this service could become more efficient due to the elimination of MNBR as an intermediate carrier and the upgrades to the line planned by CSXT. These upgrades could also improve the safety of operations over the Eastern Line. In addition, CSXT has committed to keeping the Selma gateway open for interchange with NSR on commercially reasonable terms and, for the one shipper on the Eastern Line that currently connects to both CSXT and NSR, CSXT has committed to keep current rates in place for five years. The Proposed Transaction, in combination with the CPKC Transaction, would create a direct connection between CSXT and CPKC at Myrtlewood. This new East-West Class I connection, along with the infrastructure upgrades planned by CSXT and CPKC, could provide a more efficient route for existing and future traffic moving between the eastern and southeastern United States and the southwestern United States and Mexico, potentially providing both economic and environmental benefits. Diverting existing traffic to the new Myrtlewood gateway from congested gateways such as New Orleans could also improve the efficiency of operations at those existing gateways.[10] Moreover, adding a new East-West Class I gateway will provide redundancy in the national network and could reduce the economic impact of future outages in other areas (*e.g.,* if rail infrastructure in the New Orleans area becomes unusable for a prolonged period due to flooding). There is a potential that traffic currently interchanged with other carriers may be diverted to the Myrtlewood interchange post-transaction (as discussed in the section below), and this has implications for competition, including a potential increase in competition to the benefit of shippers. The Board finds, at least preliminarily, that the potential risks of anticompetitive effects are clearly outweighed by the Proposed Transaction's anticipated benefits.

For these reasons, based on the information provided in the Application, the Board finds the Proposed Transaction to be a minor transaction under 49 CFR 1180.2(c). This determination should not be read to mean that the proposed Transaction is insignificant or of little importance. Indeed, after the record is fully developed, the Board will conduct a careful review before making a final determination as to whether the Proposed Transaction would substantially lessen competition, create a monopoly, or restrain trade, and whether any anticompetitive effects would be outweighed by the public interest. *See* 49 U.S.C. 11324(d)(1)(2). The Board may also consider imposing conditions on the Proposed Transaction.

Supplemental Information. The Board notes that the Proposed Transaction, in conjunction with the CPKC's Transaction, may result in shifts to traffic flows, including traffic currently interchanged with a third-party carrier. (*See e.g.,* Appl., Ex. 22–A, V.S. Adams 6 (''[I]f CPKC also acquires the Western Line and upgrades it, the substantially

[9] Additionally, as discussed above, MNBR's verified notice of exemption in Docket No. AB 1335X does not qualify for the class exemption procedures under which it was filed; however, the verified notice will be accepted as evidence bearing on consideration of whether to grant MNBR an individual exemption on the Board's own motion.

[10] CSXT has broadly represented that ''no gateways would be closed'' to shippers as a result of the transactions. (CSXT Reply 7, Oct. 27, 2023 (replying to a request filed by NSR, discussed below).) CSXT states that there are no commercial agreements between CSXT and CPKC that would force a rerouting of traffic and that the creation of the new Myrtlewood gateway would simply give shippers a new competitive option to route traffic through Myrtlewood instead of moving through other congested locations. (*Id.*) It also states that ''[t]hose gateways would remain fully open, but shippers would now have an efficient alternative to them.'' (*Id.*)

improved efficiency of the line between Meridian and Montgomery . . . is expected to significantly increase the amount of traffic that can be diverted to the Eastern Line in overhead traffic.''); CPKC Appl., App. 3, Wahba V.S. 5–7, Oct. 6, 2023, *Canadian Pac. Kan. City Ltd.,* FD 36732 et al. (describing potential diversion of premium automotive traffic moving between KCSM-served locations in Mexico and CSXT-served locations on the East Coast, but interchanged with a bridge carrier at Laredo and at East St. Louis, Memphis, and New Orleans, to direct CPKC–CSXT interchange at Myrtlewood).) To assist the Board in its consideration of the Proposed Transaction and in making the determination of what—if any—conditions might be warranted, CSXT will be directed to supplement its Application with certain additional information by November 21, 2023. *See* 49 CFR 1180.4(c)(2)(v) (''The applicant shall submit such additional information to support its application as the Board may require.'').[11]

Specifically, in its reply to NSR's Request, CSXT broadly claims that ''[n]o gateways would be closed as a result of either transaction'' and that previously-used gateways ''would remain fully open.'' (CSXT Reply, 7, Oct. 27, 2023; *see also supra* note 9.) Moreover, CPKC specifically argues that ''[f]or traffic from CSXT origins that might use the new Myrtlewood routing, CSXT would not be obtaining a longer haul than it could realize via other gateways like New Orleans, Memphis, or East St. Louis, and thus there is no conceivably applicable theory of foreclosure.'' (CPKC Reply 5 n.3, FD 36732, Oct. 27, 2023.) The Board appreciates these statements. Nevertheless, CSXT will be directed to more fully explain its position that no gateway ''would be closed,'' and describe in detail what it means when it says that all previously-used gateways will ''remain fully open.'' [12] In addition, to help the Board evaluate the argument made by CPKC regarding certain CSXT gateways, CSXT should also address whether, and to what extent, the Proposed Transaction will give it the ability and incentive to avoid existing interline routing arrangements with carriers other than CPKC, and which may require interchange at New Orleans, Memphis, or East St. Louis (as well as Chicago or any other interchange location) for traffic from certain CSXT origin areas, so that it may move that traffic via a longer haul through the CPKC–CSXT interchange at Myrtlewood. *See, e.g., https://www.up.com/customers/shortline/interline_agree/index.htm.*

Additionally, in its supplement, to further inform the Board's analysis, CSXT shall provide a list of all origination/destination areas,[13] including gateways, for the projected diverted and new traffic; identify any interchange partners participating in current movements of this traffic as well as projected diverted and new movements (if applicable); [14] and provide the associated volumes by origination/destination areas for projected diverted and new traffic. The Board recognizes that CSXT was recently involved in a transaction that required the production of substantial information about its network and the markets it serves. Some of the work involved with that production may be relevant to the Proposed Transaction, potentially lowering the burden on CSXT of producing the information requested here, which the Board recognizes goes beyond what is generally required for a minor transaction under 49 CFR 1180.4 (and therefore, not necessarily applicable to future minor transactions).

To assist the Board in evaluating the Proposed Transaction, in conjunction with CPKC's proposed acquisition of the Western Line, CSXT will be directed to provide additional operational information. As NSR notes, the Application does not include an analysis of the potential operational impacts to shippers or Amtrak passengers on rail segments outside the Eastern Line and Western Line. (NSR Reply 12–13.) Accordingly, the Board directs CSXT to detail any impacts anticipated on other rail operations, including (1) potential impacts on any passenger rail operations that involve crossing the Eastern Line, and (2) delays that may be occasioned because a line is scheduled to handle increased traffic due to route consolidations or traffic diversions. Additionally, CSXT shall provide a description of the effect of any deferred maintenance or delayed capital improvements on the subject lines and associated equipment. This should include the schedule for eliminating such deferrals, details of general system rehabilitation (including rehabilitation relating to the transaction, such as proposed yard and terminal modifications), and how these activities will lead to service improvements or operating economies anticipated from the transaction.

Procedural Schedule. CSXT is directed to supplement its Application as discussed in this decision by November 21, 2023. Any person who wishes to participate in this proceeding as a Party of Record must file a notice of intent to participate no later than November 27, 2023; all comments, protests, requests for conditions, and any other evidence and argument in opposition to the Application, including filings by DOJ and DOT, must be filed by December 11, 2023; and responses to comments, protests, requests for conditions, and other opposition on the transportation merits of the Transaction must be filed by January 8, 2024.[15] The Board is required to issue ''a final decision by the 45th day after the date on which it concludes the evidentiary proceedings,'' 49 U.S.C. 11325(d)(2), and will do so here, subject to the

[11] On October 25, 2023, NSR filed a request (NSR's Request) for the Board to consolidate this proceeding with the proceeding regarding the CPKC Transaction and hold the consolidated proceeding in abeyance, including the Board's determination of whether to designate the transactions as minor or significant, until such time that CSXT and CPKC provide certain additional information, primarily regarding the potential effects of changes in CPKC–CSXT traffic flows on other traffic. On October 27, 2023, CSXT filed a reply. CSXT does not oppose embracing the two cases in one proceeding but argues the Board should not require the parties to file a consolidated application. (CSXT Reply 6 n.3, Oct. 27, 2023.) CSXT further argues that its application is complete and that the issues raised by NSR can be addressed through the comment process required by the procedural schedule. (*Id.* at 7.) On October 31, 2023, Illinois Central Railroad Company filed in support of NSR's request for consolidation. For the reasons given above, the current record supports a minor designation. The Board will not order the parties to submit a consolidated application at this time, though as discussed below, the Board's Office of Environmental Analysis (OEA) has determined that it is appropriate to prepare one EA to encompass both the Western Line and the Eastern Line. The Board may further address the consolidation issue in a subsequent decision. Additionally, the Board will not hold the proceedings in abeyance, as the Board is requiring CSXT to supplement the record as discussed further in this decision.

[12] The Board notes that CPKC states that there is not ''some secret overarching agreement between CPKC and CSXT that has not been put before the Board and that somehow implicates the competitive landscape.'' (CPKC Reply 5–6, FD 36732, Oct. 27, 2023.)

[13] Origination/destination areas may be as broad as a state or group of states. CSXT shall provide a justification for its definition of the state or region whatever grouping metric it uses for its analysis, and it shall specify the gateway(s) used by traffic for the origination or destination areas.

[14] Information should include the total count of cars interchanged categorized by two-digit Standard Transportation Commodity Code and broken out by interchange partner.

[15] CSXT proposes a round of briefs due on the same day that the evidentiary record is statutorily required to close. (Appl. 26); *see also* 49 U.S.C. 11325(d)(2). CSXT however provides no explanation as to the intent or necessity of these additional briefs, which are not contemplated by the governing statute or the Board's regulations. *See* 49 U.S.C. 11325(d)(2); 49 CFR 1180.4(e)(2). Accordingly, the Board has not included the proposed briefs in the procedural schedule adopted here.

completion of environmental review.[16] The Board reserves the right to adjust the schedule as circumstances may warrant. The adopted procedural schedule is in Appendix to this decision.

Notice of Intent To Participate. Any person who wishes to participate in this proceeding as a Party of Record must file with the Board, no later than November 27, 2023, a notice of intent to participate, accompanied by a certificate of service indicating that the notice has been properly served on the Secretary of Transportation, the Attorney General of the United States, and CSXT's representative.

If a request is made in the notice of intent to participate to have more than one name added to the service list as a Party of Record representing a particular entity, the extra name(s) will be added to the service list as a ''Non-Party.'' Any person designated as a Non-Party will receive copies of Board decisions, orders, and notices but not copies of official filings. Persons seeking to change their status must accompany that request with a written certification that they have complied with the service requirements set forth at 49 CFR 1180.4 and any other requirements set forth in this decision.

Discovery. Discovery may begin immediately. The parties are encouraged to resolve all discovery matters expeditiously and amicably.

Environmental Matters. NEPA requires that the Board take environmental considerations into account in its decision-making. Under the Board's environmental regulations, an acquisition under 49 U.S.C. 11323 generally requires the preparation of an EA where certain thresholds would be exceeded. *See* 49 CFR 1105.6(b)(4). The thresholds for assessing environmental impacts from increased rail traffic on rail lines in acquisitions are an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains per day. 49 CFR 1105.7(e)(5). For air quality impacts, rail lines located in areas classified as being in ''nonattainment'' areas under the Clean Air Act (42 U.S.C. 7401–7671q) are also assessed if they would experience an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains per day. 49 CFR 1105.7(e)(5)(ii).

In its Application, CSXT submitted environmental information, including estimated volume increases on the Eastern Line by track segment (Exhibit 4). The estimated volume for each segment includes transaction-related projections for five years (through 2029), as well as no-action projections (traffic including increases that would occur without the Proposed Transaction). CSXT presented two scenarios for its traffic projections. The first scenario assumes that the Proposed Transaction would occur without the CPKC Transaction. CSXT expects that this scenario would not produce significant changes to the existing traffic because the same number of trains currently operated by MNBR and CSXT over the Eastern Line would be operated by CSXT post-transaction. In the second scenario, CSXT assumes that both the Proposed Transaction and the CPKC Transaction would occur at the same time. CSXT states that the second scenario would result in an increase in gross-ton miles of 100%. (Appl., Ex. 4, Env't Info. 7.) According to CSXT, the Proposed Transaction would result in improved efficiency and potential traffic diversions from truck to more environmentally favorable rail. (Appl., Ex. 4, Env't Info. 9.)

The NEPA Process. OEA has reviewed the data provided by CSXT, including its traffic projections through 2029. Based on the current record, neither the 8-trains-per-day nor 3-trains-per-day thresholds for environmental review will be exceeded as a result of the Proposed Transaction. However, because there will be an increase in gross-ton miles in excess of 100% on the line segments involved in the Proposed Transaction under CSXT's second scenario, the gross-ton mile threshold will be exceeded and therefore, OEA will prepare an EA. *See* 49 CFR 1105.7(e)(5)(i); 1105.10(b). For expediency and efficiency, OEA will prepare one EA to encompass both the Eastern Line (including the Burkville-Montgomery segment) and the Western Line because these transactions involve contiguous sections of the same rail line; indeed, both CPKC and CSXT (under scenario two) provided volume forecasts showing exceedance of the gross ton mile thresholds based on each transaction being authorized and implemented. (Appl., Ex.4, Env't Info. 6–7; *see also* CPKC Appl., Ex. 4, Env't Info. 38, Oct. 6, 2023, *Canadian Pac. Kan. City Ltd.,* FD 36732 et al.) In addition, the environmental impacts from both transactions are expected to be very similar and both applications were filed at the same time, allowing the environmental review of the two transactions to proceed simultaneously.

The EA process will address potential environmental impacts of activities associated with both the Western Line and the Eastern Line, including changes in rail line traffic and rail yard activity changes. OEA will prepare a Draft EA and issue it for public comment. Following the close of the comment period, OEA will prepare a Final EA. The Final EA will address the comments received on the Draft EA, present OEA's final conclusions regarding the potential environmental impacts of the transactions, and set forth OEA's final recommendations to the Board, including recommended environmental mitigation measures.[17] The Board then will consider the entire record, including the record on the transportation merits, the Draft EA, the Final EA, and all public comments received. In its final decision, the Board will decide whether the Proposed Transaction should be authorized and, if so, what conditions, including environmental mitigation conditions, to impose.

Historic Review. The Board's regulations provide that historic review normally is not required for acquisitions where there would be no significant change in operations and properties 50 years old and older would not be affected. *See* 49 CFR 1105.8. CSXT states that rail operations would continue on the Eastern Line and that there are no plans to dispose of or alter properties that are fifty years old or older. (Appl., Ex. 4, Env't Info. 1.) Therefore, based on the current record, no historic review is required.

Service on Parties of Record. Each Party of Record will be required to serve upon all other Parties of Record, within 10 days of the service date of this decision, copies of all filings previously submitted by that party (to the extent such filings have not previously been served upon such other parties). Each Party of Record will also be required to file with the Board, within 10 days of the service date of this decision, a certificate of service indicating that the service required by the preceding sentence has been accomplished. Every filing made by a Party of Record after the service date of this decision must have its own certificate of service indicating that all Parties of Record on the service list have been served with a copy of the filing. Members of the United States Congress and Governors are not Parties of Record and need not be served with copies of filings, unless

[16] This notice will be published in the **Federal Register** on November 9, 2023, and all subsequent deadlines will be calculated from this date. Deadlines for filings are calculated in accordance with 49CFR 1104.7(a).

[17] The Board's general practice has been to mitigate only impacts resulting directly from a proposed transaction, and not to require mitigation for existing conditions and existing railroad operations. *See* 49 CFR 1180.1(f)(1).

any Member or Governor has requested to be, and is designated as, a Party of Record.

Service of Decisions, Orders, and Notices. The Board will serve copies of its decisions, orders, and notices on those persons who are designated on the service list as a Party of Record or Non-Party. All other interested persons are encouraged to obtain copies of decisions, orders, and notices via the Board's website at *www.stb.gov.*

Access to Filings. Under the Board's rules, any document filed with the Board (including applications, pleadings, etc.) shall be promptly furnished to interested persons on request, unless subject to a protective order. 49 CFR 1180.4(a)(3). The Application and other filings in this proceeding will be furnished to interested persons upon request and will also be available on the Board's website at *www.stb.gov.* In addition, the Application may be obtained from CSXT's representative at the address indicated above.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The Application filed in Docket No. FD 36727 and the related verified notice of exemption filed in Docket Nos. FD 36724 are accepted for consideration.

2. CSXT shall file the supplemental information described above by November 21, 2023.

3. The filing in Docket No. AB 1335X is accepted to the extent discussed above. MNBR may file supplemental evidence and argument in support of an individual exemption in that docket by November 21, 2023.

4. The parties to this proceeding must comply with the procedural schedule shown in the Appendix to this decision and the procedural requirements described in this decision.

5. NSR's request to hold this proceeding in abeyance is denied.

6. This decision is effective on November 3, 2023.

Decided: November 3, 2023.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz. Board Member Schultz, joined by Board Member Fuchs, concurred with a separate expression.

BOARD MEMBER SCHULTZ, with whom BOARD MEMBER FUCHS joins, concurring:

I agree that this Proposed Transaction should be classified as minor and that the record at this stage of the proceeding indicates that any anticompetitive effects of the Proposed Transaction will clearly be outweighed by the Proposed Transaction's anticipated contribution to the public interest in meeting significant transportation needs. On this record, I would not order CSXT to submit this extensive amount of supplemental information at this stage in the proceeding. While the Board has the authority to require the filing of supplemental information, the better course here would have been to assess whether any supplemental information is necessary after full analysis of all comments and requests for conditions and again after responses to those comments and requests, when the Board would benefit from the full views of shippers, railroads, and the broader public.

Jeffrey Herzig,

Clearance Clerk.

Appendix

Procedural Schedule

October 6, 2023—Application filed.

November 3, 2023—Board notice of acceptance of application served.

November 21, 2023—CSXT's supplemental information due.

November 27, 2023—Notices of intent to participate in this proceeding due.

December 11, 2023—All comments, protests, requests for conditions, and any other evidence and argument in opposition to the application, including filings of DOJ and DOT, due.

January 8, 2024—Responses to comments, protests, requests for conditions, and other opposition due. Rebuttal in support of the application due.

TBD—Record closes.

No later than 45 days after close of the record—Date by which a final decision will be served.[1]

30 days after service—Board's decision becomes effective.

[FR Doc. 2023–24854 Filed 11–8–23; 8:45 am]

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[1] 49 U.S.C. 11325(d)(2) provides that the Board must issue its final decision within 45 days of the close of the evidentiary record. However, under NEPA, the Board may not issue a final decision until after the required environmental review is complete. In the event the environmental review process is not able to be concluded in sufficient time for the Board to meet the 45-day provision in section 11325(d)(2), the Board will issue a final decision as soon as possible after that process is complete.

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36732]

Canadian Pacific Kansas City Limited and The Kansas City Southern Railway Company, d/b/a CPKC—Acquisition and Operation—Certain Rail Line of Meridian & Bigbee Railroad, L.L.C. in Lauderdale County, Miss., and Choctaw and Marengo Counties, Ala.

AGENCY: Surface Transportation Board.

ACTION: Decision No. 1; notice of acceptance of application; notice of acceptance of related filings for consideration; issuance of procedural schedule.

SUMMARY: The Surface Transportation Board (Board) is accepting for consideration the primary application (Application) filed October 6, 2023, by Canadian Pacific Kansas City Limited (CPKCL), a noncarrier, on behalf of itself and its wholly owned subsidiary, The Kansas City Southern Railway Company (KCS) d/b/a CPKC (collectively, Applicants). The Application seeks Board approval for KCS, a Class I rail carrier, to acquire from Meridian & Bigbee Railroad, L.L.C. (MNBR), a Class III rail carrier, and to operate approximately 50.4 route miles of rail line between Meridian, Miss., and Myrtlewood, Ala. (the Western Line). This proposal is referred to as the ''Proposed Transaction.'' The Board is also accepting for consideration three related filings.

DATES: The effective date of this decision is November 3, 2023. Applicants are directed to supplement their Application as discussed in this decision by November 21, 2023. Any person who wishes to participate in this proceeding as a Party of Record must file, no later than November 27, 2023, a notice of intent to participate. All comments, protests, requests for conditions, and any other evidence and argument in opposition to the Application and related filings, including filings by the U.S. Department of Justice (DOJ) and the U.S. Department of Transportation (DOT), must be filed by December 11, 2023. Responses to comments, protests, requests for conditions, other opposition, and rebuttal in support of the Application must be filed by January 8, 2024. *See* Appendix (Procedural Schedule). A final decision in this matter will be served no later than 45 days after the date on which the evidentiary proceedings conclude, subject to the completion of environmental review. Further procedural orders, if any, would be issued by the Board.

ADDRESSES: Any filing submitted in this proceeding should be filed with the Board via e-filing on the Board's website. In addition, one copy of each filing must be sent (and may be sent by email only if service by email is acceptable to the recipient) to each of the following: (1) Secretary of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) Attorney General of the United States, c/o Assistant Attorney General, Antitrust Division, Room 3109, Department of Justice, Washington, DC 20530; (3) Applicants' representative, David F. Rifkind, Stinson LLP, 1775 Pennsylvania Avenue NW, Suite 800, Washington, DC 20006; and (4) any other person designated as a Party of Record on the service list.

FOR FURTHER INFORMATION CONTACT: Valerie Quinn at (202) 740–5567. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: Applicants seek the Board's prior review and authorization pursuant to 49 U.S.C. 11323–25 and 49 CFR part 1180 for KCS to acquire from MNBR and operate the Western Line, which comprises approximately 50.4 route miles of rail line between milepost 0.0± at Meridian and milepost 50.4± at Myrtlewood. (Appl. 1, 21–22.) According to the Application, KCS would also acquire all operating rail property owned by MNBR on the Western Line, including yards at Meridian; Naheola, Ala.; and Myrtlewood; as well as stations at Meridian; Whynot, Miss.; Yantley, Ala.; Cromwell, Ala.; Jachin, Ala.; Naheola; and Myrtlewood. (*Id.* at 22.) [1]

CPKC's family of operating railroads in the United States includes two Class I rail carriers (including KCS) and four Class II rail carriers. (*Id.* at 23.) The CPKC system also includes operations in Canada by the Canadian Pacific Railway Company (CPRC) and in Mexico by the Kansas City Southern de México, S.A. de C.V. (KCSM). (*Id.*) Together, these railroad companies operate approximately 8,600 miles of track in the United States, which connects with approximately 7,700 miles that CPRC operates in Canada and approximately 3,800 miles that KCSM operates in Mexico. (*Id.*) KCS currently operates or possesses property rights in Alabama, Arkansas, Illinois, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas. (*Id.* at 19.)

MNBR, a subsidiary of Genesee & Wyoming, Inc. (G&W), currently operates approximately 168 miles of single-track mainline between Meridian and Montgomery, Ala. (*Id.* at 21; *id.,* Ex. 2 at 1.) MNBR owns and is the sole operator on the Western Line, where it serves 11 local customers. (*Id.,* App. 2, V.S. Clements 6; *id.,* Ex. 15, Operating Plan 2; *id.,* Ex. 4, Env't Info. 37.) In addition to the Western Line, MNBR operates a rail line known as the Eastern Line that connects to the Western Line at Myrtlewood and extends east to Burkville, Ala.[2] (*Id.* at 21.) MNBR also operates between Burkville (the eastern end of the Eastern Line) and Montgomery pursuant to overhead trackage rights. (*Id.* at 21; *id.,* Ex. 15, Operating Plan 2.) On the Western Line, MNBR currently interchanges with CPKC and Norfolk Southern Railway Company (NSR) at Meridian. (*Id.,* Ex. 15, Operating Plan 3.) On the Eastern Line, MNBR currently interchanges with Alabama & Gulf Coast Railway LLC (AGR) [3] at Linden, Ala., and with NSR at Selma, Ala. (*Id.*) MNBR also interchanges with CSXT at Montgomery. (*Id.*)

Applicants state that KCS is acquiring the Western Line to establish a direct interchange with CSXT at Myrtlewood, and that the Proposed Transaction is contingent on CSXT acquiring and resuming operations on the Eastern Line. (*Id.* at 2); *see also CSX Transp., Inc.—Acquis. & Operation—Rail Line of Meridian & Bigbee R.R.,* Docket No. FD 36727. According to Applicants, CPKC trains will handle overhead traffic only and will not provide local service. (Appl., Ex. 4, Env't Info. 37.) Applicants state that they expect to interchange one train pair daily with CSXT, with an average volume of 70 cars per train, for at least the first five years. (*Id.* at 13; *id.,* Ex. 15, Operating Plan 8.) Applicants represent that, while CPKC intends to grow the volumes served on this route, one train pair daily should provide sufficient capacity to accommodate much of the growth in the first five to ten years. (*Id.,* Ex. 15, Operating Plan 8.)

According to the Application, MNBR would continue to provide local and overhead rail service on the Western Line post-transaction much as it does today, except that it would no longer act as an intermediate bridge carrier for CPKC–CSXT traffic. (*Id.,* Ex. 4, Env't Info. 37.) Specifically, MNBR would retain exclusive trackage rights to operate over the Western Line to (1) serve existing customers and (2) interchange with, and handle freight rail traffic to and from, AGR at or near Myrtlewood for interchange with CPKC and NSR at Meridian. (*Id.,* Ex. 2, Retained Trackage Rights Agreement, art. 2.1.) MNBR would also retain non-exclusive trackage rights to operate over the Western Line to (1) interchange with, and handle freight rail traffic to and from, CSXT at or near Myrtlewood for interchange with NSR at Meridian and (2) if requested by CPKC, handle CPKC–CSXT overhead freight rail traffic between Meridian and Myrtlewood. (*Id.*)

The Board finds that the Application is complete and that the Proposed Transaction is a minor transaction based upon the preliminary determination that the Proposed Transaction's anticipated contribution to the public interest in meeting significant transportation needs clearly outweighs any potential anticompetitive effects. 49 CFR 1180.2(b), (c). The Board makes this preliminary determination based solely on the evidence presented in the Application. The Board emphasizes that this is not a final determination and may be revisited or rebutted by subsequent filings and evidence submitted into the record for this proceeding. The Board also adopts a procedural schedule for consideration of the Application and directs Applicants to file certain supplemental information.

Finally, an Environmental Assessment (EA) will be prepared to comply with the Board's obligations under the National Environmental Policy Act, 42 U.S.C. 4321–4370m–11 (NEPA), and related environmental laws.[4]

Financial Arrangements. According to Applicants, no cash is involved in the Proposed Transaction and no new securities would be issued in connection with the Proposed Transaction. (*Id.* at 14, 16.) Applicants state that the only relevant financial arrangement is the in-kind consideration paid by CPKC as provided in the draft purchase agreement

[1] This decision embraces the following dockets: *CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss.,* Docket No. AB 55 (Sub-No. 814X); *Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City,* Docket No. FD 36731; and *CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway,* Docket No. FD 36730.

[2] MNBR owns the line but leases the underlying right of way from CSX Transportation, Inc. (CSXT). (Appl. 21; *id.,* App. 4, V.S. Walsh 2.) Applicants note that MNBR's lease is scheduled to expire in November 2023. (*Id.* at 2.)

[3] AGR is also a subsidiary of G&W. (*Id.* at 4.)

[4] The Board is required to accommodate NEPA's requirements in its decision-making. Therefore, the Board will not issue a final decision on the merits of the Application until the environmental review is complete, including preparation of an EA and opportunity for public comment and participation during the EA process. *See* Environmental Matters section below.

(Transaction Agreement).[5] (*Id.*) Applicants state that the parties have agreed upon a valuation of the property rights that KCS would acquire, and as consideration, MNBR's parent company, G&W, would receive equivalent value in the form of rights with respect to two CPKC operating properties in Canada. (*Id.* at 16.) Applicants further state that the Transaction Agreement entitles G&W to receive additional compensation under certain circumstances. (*Id.*)

Passenger Service Impacts. Applicants assert that there would be no impact on commuter or other passenger service because no commuter or passenger service moves on the Western Line. (*Id.,* Ex. 15, Operating Plan 12.)

Discontinuances/Abandonments. According to Applicants, CPKC does not anticipate seeking authority for any discontinuances of service or rail line abandonments in relation to the Proposed Transaction. (*Id.,* Ex. 15, Operating Plan 12.) Applicants state that CSXT has agreed to seek authority to discontinue its overhead trackage rights on the Western Line. (*Id.*); *see also* CSXT Notice, Oct. 6, 2023, *CSX Transp., Inc.—Discontinuance of Trackage Rts. Exemption—in Marengo & Choctaw Cntys., Ala. & Lauderdale Cnty., Miss.,* AB 55 (Sub-No. 814X). Additionally, Applicants state that, in conjunction with CSXT's proposed acquisition of the Eastern Line, CPKC anticipates that MNBR will seek authority to discontinue its overhead trackage rights between Burkville and Montgomery. (Appl., Ex. 15, Operating Plan 12); *see also* MNBR Notice, Oct. 6, 2023, *Meridian & Bigbee R.R.—Discontinuance of Incidental Overhead Trackage Rts.—in Lowndes & Montgomery, Ala.,* AB 1335X.

Public Interest Considerations. Applicants assert that the Proposed Transaction would enhance competition by establishing a direct, efficient interchange with CSXT at Myrtlewood, thereby creating a new east-west Class I freight rail corridor linking CPKC-served markets in Mexico and the southwestern United States with CSXT-served markets in the southeastern United States and beyond. (Appl. 2.) Applicants state that a direct CPKC–CSXT routing would give CPKC and CSXT control over the traffic between origin and destination, enabling them to deliver ''a reliable and consistent premium train service.'' (*Id.* at 11.)

According to Applicants, this new freight rail corridor would provide a shorter and more efficient route for existing CPKC–CSXT traffic and a new, highly attractive option for new customers. (*Id.*) Applicants state that CPKC and CSXT intend to coordinate interchange to minimize dwell and would operate utilizing run-through power. (*Id.* at 11–12.) Applicants further state that a direct CPKC–CSXT routing over Myrtlewood would reduce the amount of traffic that CPKC currently interchanges with intermediate carriers and would avoid areas such as New Orleans that are difficult to traverse and susceptible to seasonal weather disruptions. (*Id.* at 10–11, 14.) As a result, CPKC anticipates that the Proposed Transaction would reduce the number of work events and yard dwell time associated with existing CPKC–CSXT interline traffic, and in turn reduce operational risks. (*Id.* at 14.) Additionally, Applicants contend that the Proposed Transaction would position CPKC to compete for the new traffic that it states will be generated by several new automotive plants that are planned to open in the southeastern United States in the next few years. (*Id.* at 11.) Applicants also note that CPKC intends to invest approximately $46 million to upgrade the infrastructure of the Western Line to Class I railroad standards[6] and approximately $9 million on bridge repair and improvements, elevating the Western Line from a lower-density line to a competitive east-west corridor.[7] (*Id.* at 12–13.)

Time Schedule for Consummation. Applicants state that the Proposed Transaction is scheduled to be consummated as soon as practicable after the Board's decision approving the Application becomes effective and upon satisfaction of all other conditions precedent to closing set forth in the Transaction Agreement. (*Id.* at 9.)

Environmental and Historic Preservation Impacts. Applicants state that they include with the Application the information required by 49 CFR 1180.6(a)(8) and 49 CFR part 1105. (Appl. 36.) As discussed below, the Proposed Transaction would exceed the Board's thresholds for environmental review. Therefore, the Board will prepare an EA. Based on the available information, no historic review is required.

Labor Impacts. Applicants state that, as a result of the Proposed Transaction, CPKC anticipates it would hire 12 new, full-time employees in 2024, including one track inspector, one foreman, one machine operator, one trackman, and eight Meridian-based train and engine service employees. (Appl. 17; *id.,* Ex. 15, Operating Plan 13.) Applicants state that no CPKC employee will be adversely affected by the Proposed Transaction. (*Id.* at 17; *id.,* Ex. 15, Operating Plan 13.) Applicants note that employees adversely affected by the Proposed Transaction would be entitled to the employee protective conditions and other procedures adopted in *New York Dock Railway—Control—Brooklyn Eastern District Terminal,* 360 I.C.C. 60 (1979), *aff'd sub nom. New York Dock Railway* v. *United States,* 609 F.2d 83 (2d Cir. 1979), as modified by *Wilmington Terminal Railroad—Purchase & Lease—CSX Transportation Inc.,* 6 I.C.C.2d 799, 814–26 (1990), *aff'd sub nom. Railway Labor Executives' Association* v. *Interstate Commerce Commission,* 930 F.2d 511 (6th Cir. 1991). (Appl. 16.)

Related Filings. Three verified notices of exemption and an application for acquisition and operation authority were filed in connection with the Proposed Transaction.[8]

CSXT Acquisition of Trackage Rights. In Docket No. FD 36730, CSXT filed a verified notice of exemption under 49 CFR 1180.2(d)(7) to acquire overhead trackage rights from KCS over approximately two miles of rail line between milepost 50.4 and milepost 48.4 on the Western Line. CSXT states that the trackage rights are related to its proposed acquisition of the Eastern Line between Burkville and Myrtlewood in Docket No. FD 36727. CSXT states that the overhead trackage rights would allow CSXT to access a point on the Western Line to interchange traffic with AGR and MNBR at Myrtlewood. CSXT states that it intends to consummate this transaction on or shortly after the date it acquires the Eastern Line from MNBR. As a condition to use of this exemption, CSXT states that any employees adversely affected by the transaction would be protected by the conditions set forth in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980).

[5] The Transaction Agreement is attached to the Application as Exhibit 2.

[6] Applicants state that CPKC is planning an extensive track maintenance and rehabilitation program to improve the track to support operations at a sustained maximum speed of 25 MPH, with the potential for additional improvements in the future. (Appl. 12.)

[7] Applicants further note that CPKC intends to embark on a multi-year bridge rehabilitation program, which it estimates will cost over $100 million. (*Id.* at 12–13.)

[8] Also, on September 28, 2023, Applicants filed a motion for protective order in Docket No. FD 36732, which was granted by decision served on October 11, 2023.

AGR Acquisition of Trackage Rights. In Docket No. FD 36731, AGR, a Class II rail carrier, filed a verified notice of exemption under 49 CFR 1180.2(d)(7) to acquire overhead trackage rights from CPKC over approximately 8.4 miles of rail line between milepost 50.4± and milepost 42.0±. AGR currently holds incidental operating rights from Linden to Myrtlewood over the Eastern Line for purposes of interchange with MNBR. AGR intends to use the overhead trackage rights sought in Docket No. FD 36731 for continued interchange with MNBR and to interchange with CSXT at Myrtlewood following CSXT's acquisition of the Eastern Line.[9] AGR states that it intends to consummate the agreement and commence operations either on the effective date of its notice or upon the consummation of CPKC's acquisition of the Western Line, whichever is later. As a condition to use of this exemption, AGR states that any employees adversely affected by the transaction would be protected by the conditions set forth in *Norfolk & Western Railway—Trackage Rights,* 354 I.C.C. 605, as modified in *Mendocino Coast Railway—Lease & Operate,* 360 I.C.C. 653.

CSXT Discontinuance of Trackage Rights. In Docket No. AB 55 (Sub-No. 814X), CSXT filed a verified notice of exemption under the class exemption at 49 CFR part 1152, subpart F, to discontinue overhead trackage rights over the entirety of the Western Line, including ''head and tail operating room'' at both ends, for a total distance of approximately 51 miles. CSXT states that it has not moved any traffic over the line during the past two years and that it intends to consummate its discontinuance authority on the same day that CPKC consummates its proposed acquisition of the Western Line. As a condition to the use of this exemption, CSXT states that any employees adversely affected by the transaction would be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

CSXT is seeking this discontinuance authority under the Board's two-year-out-of-service class exemption procedures, although another carrier, MNBR, has been providing local service over the same line during that two-year period. In *Austin Area Terminal Railroad—Discontinuance of Service Exemption—in Bastrop, Burnet, Lee, Llano, Travis, & Williamson Counties, Tex.,* AB 578X (STB served Nov. 3, 2023), the Board recently reaffirmed that to qualify for the two-year-out-of-service class exemption a carrier must certify that *no local traffic* has moved over the line for two years, not just its own traffic. Accordingly, the Board upheld a prior decision that rejected a verified notice because the required certification concerning the absence of local traffic on the line was deficient. *Id.* at 1. The Board noted, however, that carriers may petition the Board for individual exemptions under 49 U.S.C. 10502(a) and granted on its own motion an individual exemption authorizing the discontinuance. *Id.* at 4–5.

Although, per *Austin Area Terminal Railroad,* CSXT may not proceed under the Board's two-year-out-of-service class exemption procedures, the Board will nonetheless consider whether to grant an individual exemption for this discontinuance authority on its own motion as it considers the Proposed Transaction. To that end, CSXT may supplement the record in Docket No. AB 55 (Sub-No. 814X) by November 21, 2023, with any additional information and argument it would like the Board to consider in determining whether the proposed discontinuance meets the exemption standard of 49 U.S.C. 10502(a).

CSXT Acquisition of the Eastern Line. In Docket No. FD 36727, CSXT seeks the Board's prior review and authorization pursuant to 49 U.S.C. 11323–25 and 49 CFR part 1180 to acquire from MNBR and to operate the Eastern Line. The Eastern Line consists of two segments totaling approximately 93.68 miles: (1) extending from milepost XXB 189.00 near Burkville to milepost XXB 222.00 at Western Junction, a distance of approximately 30.22 miles;[10] and (2) extending from a connection with the first segment at Western Junction, milepost OOR 716.25 to milepost ORS 779.71 near Myrtlewood, a distance of approximately 63.46 miles. The Eastern Line includes Selma Yard, at Selma, and the following stations: Myrtlewood, Linden, Thomaston, Safford, Orville, Beloit, Selma, Industrial Lead, Tyler, Benton, Whitehall, and Burkville.

Together with the Proposed Transaction, CSXT's proposed acquisition of the Eastern Line would create a direct CPKC–CSXT interchange at Myrtlewood. While CPKC states in the Application that the Proposed Transaction is contingent on CSXT acquiring and resuming operations on the Eastern Line, CSXT states in its application that its acquisition of the Eastern Line could proceed regardless of whether the CPKC acquires the Western Line.[11]

Primary Application and Related Filings. The Board finds that the Proposed Transaction would be a ''minor transaction'' under 49 CFR 1180.2(c), and the Board accepts the Application for consideration because it is in substantial compliance with the applicable regulations governing minor transactions. *See* 49 U.S.C. 11321–26; 49 CFR part 1180. Additionally, the Board is accepting for consideration the related filings in Docket Nos. FD 36730 and FD 36731, which are also in compliance with the applicable regulations.[12] As discussed below, the Board will require Applicants to

[9] Applicants state that CPKC would grant AGR trackage rights to Naheola Yard in order to give AGR the flexibility to interchange with MNBR at Naheola Yard instead of Myrtlewood if operating conditions warrant, *e.g.,* if for some reason, the designated Myrtlewood yard track cannot accommodate the volume of MNBR's and AGR's interchange traffic. (Appl., Ex. 15, Operating Plan 8.)

[10] By decision served November 3, 2023, in Docket No. FD 36727, CSXT has been asked to confirm the total distance of the Burkville to Western Junction segment. *See CSX Transp., Inc.—Acquis. & Operation—Rail Line of Meridian & Bigbee R.R.,* FD 36727 et al., slip op. at 3 n.3 (STB served Nov. 3, 2023).

[11] On October 25, 2023, NSR filed a request (NSR's Request) for the Board to consolidate this proceeding with the proceeding in Docket No. FD 36727 regarding the CSXT's acquisition of the Eastern Line (and all of the related filings in both dockets) and to hold the consolidated proceeding in abeyance, including the Board's determination of whether to designate the transactions as minor or significant, until such time that CSXT and CPKC provide certain additional information, primarily regarding the potential effects of changes in CPKC–CSXT traffic flows on other traffic. On October 27, 2023, Applicants replied in opposition to NSR's request, arguing that the Proposed Transaction builds upon but is not part of CSXT's proposed acquisition of the Eastern Line and is properly classified as a minor transaction. (CPKC Reply 4–6, Oct. 27, 2023.) Applicants further argue that the Application appropriately addresses the cumulative effects of the Proposed Transaction against the backdrop of CSXT's proposed transaction. (*Id.* at 6–10.) On October 31, 2023, Illinois Central Railroad Company filed in support of NSR's request for consolidation, and CPKC responded the same day. For the reasons given above, the current record supports a minor designation. The Board will not order the parties to submit a consolidated application at this time, though as discussed below, the Board's Office of Environmental Analysis (OEA) has determined that it is appropriate to prepare one EA to encompass both the Western Line and the Eastern Line. The Board may further address the consolidation issue in a subsequent decision. Additionally, the Board will not hold the proceedings in abeyance, as the Board is requiring Applicants to supplement the record as discussed further in this decision.

[12] In Docket No. FD 36727, the Board accepted for consideration CSXT's application to acquire the Eastern Line. *See CSX Transp., Inc.—Acquis. & Operation,* FD 36727 et al., slip op. at 8. Additionally, as discussed above, CSXT's verified notice of exemption in Docket No. AB 55 (Sub-No. 814X) does not qualify for the class exemption procedures under which it was filed; however, the verified notice will be accepted as evidence bearing on consideration of whether to grant CSXT an individual exemption on the Board's own motion.

supplement the record and reserves the right to require further supplemental information as necessary to complete the record.

When a transaction does not involve the merger or control of two or more Class I railroads, the Board's treatment differs depending upon whether the transaction would have ''regional or national transportation significance.'' 49 U.S.C. 11325. Under 49 CFR 1180.2, a transaction that does not involve two or more Class I railroads is to be classified as ''minor''—and thus not having regional or national transportation significance—if a determination can be made that either: (1) the transaction clearly will not have any anticompetitive effects, or (2) any anticompetitive effects of the transaction will clearly be outweighed by the transaction's anticipated contribution to the public interest in meeting significant transportation needs. A transaction not involving the control or merger of two or more Class I railroads is to be classified as ''significant'' if neither of these determinations can be made. (*Id.*)

The Board finds the Proposed Transaction to be a ''minor transaction'' because it appears from the face of the Application that the efficiency and other public interest benefits would clearly outweigh the potential anticompetitive effects of the transaction. The Proposed Transaction, in conjunction with CSXT's acquisition of the Eastern Line, would create a new, direct Class I to Class I connection that could provide potential improvements in the efficient movement of existing and future intermodal, automotive, and other interline traffic between the Southeastern United States and the Southwestern United States and Mexico. (*See* Appl. 5.) A direct CPKC–CSXT route has the potential to offer faster transit times and more efficient and reliable service, (*see id.,* App. 3, V.S. Wahba 6), giving CPKC a new ability to compete effectively against existing interline routing options. It could also reduce the amount of traffic that CPKC currently interchanges with intermediate carriers—including with the MNBR at Meridian—and allow certain movements to avoid areas such as New Orleans that are difficult to traverse and susceptible to seasonal weather disruptions. (*See id.* at 14.) Diverting existing traffic to the new Myrtlewood gateway from congested gateways such as New Orleans could improve the efficiency of operations at those existing gateways. Moreover, adding a new gateway would provide redundancy in the national network and could reduce the economic impact of future outages in other areas (*e.g.,* if rail infrastructure in the New Orleans area becomes unusable for a prolonged period due to flooding). The shorter transit times could also benefit shippers by lowering equipment costs and inventory carrying costs. (*See id.,* App. 3, V.S. Wahba 2.)

Applicants represent that there would be no two-to-one shippers as a result of the Proposed Transaction, *i.e.,* no shipper would lose access to a second rail carrier. (*See id.* at 14–15.) They further assert that, given MNBR's retained trackage rights (including pricing authority) with no limitations on interchange, existing shippers on the Western Line could receive the same rail service and have the same rail options currently available. (*See id.* at 2, 14; *id.,* Ex. 2, Transaction Agreement, § 2.06(a).) Indeed, it appears that, given Applicants' anticipated investments in the Western Line, customers of both Applicants and MNBR would benefit from more efficient service over upgraded and safer facilities. (*See id.* at 12–13, 15.) There is a potential that traffic currently interchanged with other carriers may be diverted to the Myrtlewood interchange post-transaction (as discussed in the section below), and this has implications for competition, including a potential increase in competition to the benefit of shippers. The Board finds, at least preliminarily, that the potential risks of anticompetitive effects are clearly outweighed by the Proposed Transaction's anticipated benefits.

For these reasons, based on the information provided in the Application, the Board finds the Proposed Transaction to be a minor transaction under 49 CFR 1180.2(c). This determination should not be read to mean that the Proposed Transaction is insignificant or of little importance. Indeed, after the record is fully developed, the Board will conduct a careful review before making a final determination as to whether the Proposed Transaction would substantially lessen competition, create a monopoly, or restrain trade, and whether any anticompetitive effects would be outweighed by the public interest. *See* 49 U.S.C. 11324(d)(1)–(2). The Board may also consider imposing conditions on the Proposed Transaction.

Supplemental Information. The Board notes that the Proposed Transaction, in conjunction with CSXT's proposed acquisition of the Eastern Line, may result in shifts to traffic flows, including traffic currently interchanged with a third-party carrier. For example, post-transaction, CPKC anticipates being able to use the new connection at Myrtlewood to interchange directly with CSXT automotive traffic moving between KCSM-served locations in Mexico and CSXT-served locations on the East Coast, (*see id.,* App. 3, V.S. Wahba 5–7), whereas today, KCSM interchanges that traffic with a bridge carrier at Laredo, Tex., which carries the traffic to/from CSXT interchanges at East St. Louis, Memphis, and New Orleans, (*id.,* App. 3, V.S. Wahba 5 (''The available direct links between the CPKC and CSXT networks generally do not provide competitive options for this traffic category . . . .'')). In order to assist the Board in its consideration of the Application and in making the determination of what—if any—conditions might be warranted, Applicants will be directed to supplement the Application by November 21, 2023, with certain additional information. *See* 49 CFR 1180.4(c)(2)(v) (''The applicant shall submit such additional information to support its application as the Board may require.'').

In CPKC's reply to NSR's Request, CPKC maintains that it is ''bound by KCSR's 2004 commitment not to close the Laredo gateway,'' and hence that ''UP will continue to have the opportunity to compete to participate in flows of traffic between Mexico and CSXT destinations in the U.S. Southeast via Laredo and New Orleans.'' (CPKC Reply 5 n.3, Oct. 27, 2023.) CPKC also states, ''[t]he newly invigorated rail service that CPKC is pursuing via this transaction is an outgrowth of the Board's approval of the CP/KCS transaction, which for example enabled the combined CPKC system to offer improved transportation solutions—and thereby to compete more effectively against its much larger rivals—for traffic of automotive manufacturers and parts suppliers.'' (*Id.* at 2–3.) In making its preliminary determination here, the Board recognizes the effects of the conditions it imposed on the merger between Canadian Pacific Railway and Kansas City Southern Railway regarding gateways and related data reporting requirements. *See Can. Pac. Ry.—Control—Kan. City S.* (*CPKC Approval Decision*), FD 36500 et al, slip op. at 12–13 (STB served Mar. 15, 2023). These conditions decrease the likelihood of any substantial lessening of competition.[13] Nonetheless, in a supplemental filing, CPKC will be directed to describe in detail the scope

[13] The Board notes that CPKC states that there is not ''some secret overarching agreement between CPKC and CSXT that has not been put before the Board and that somehow implicates the competitive landscape.'' (CPKC Reply 5–6, Oct. 27, 2023.)

of ''KCSR's 2004 commitment not to close the Laredo gateway,'' the intersection between the 2004 commitment and the conditions imposed in *CPKC Approval Decision,* FD 36500 et al., and the commitment's potential implications on the Board's final analysis of the competitive effects of the Proposed Transaction.

Additionally, in its supplement, to further inform the Board's analysis, CPKC additionally shall provide a list of all origination/destination areas,[14] including gateways, for the projected diverted and new traffic; identify any interchange partners participating in current movements of this traffic as well as projected diverted and new movements (if applicable); [15] and provide the associated volumes by origination/destination areas for projected diverted and new traffic. The Board recognizes that CPKC was recently required to produce substantial information about its network and the markets it serves in *Canadian Pacific Railway—Control—Kansas City Southern,* Docket No. FD 36500 et al. Some of the work involved with that production may be relevant to the Proposed Transaction, potentially lowering the burden on CPKC of producing the information requested here, which the Board recognizes goes beyond what is generally required for a minor transaction under 49 CFR 1180.4 (and therefore, not necessarily applicable to future minor transactions).

To assist the Board in evaluating the Proposed Transaction, in conjunction with CSXT's proposed acquisition of the Eastern Line, the Applicants will be directed to provide additional operational information. As NSR notes, the Application does not include an analysis of the potential operational impacts to shippers or Amtrak passengers on rail segments outside the Eastern Line and Western Line. (NSR Reply 12–13.) Accordingly, the Board directs Applicants to detail any impacts anticipated on other rail operations, including (1) potential impacts on any passenger rail operations that involve crossing the Western Line and (2) delays that may be occasioned because a line is scheduled to handle increased traffic due to route consolidations or traffic diversions. Applicants also shall provide a description of the effect of any deferred maintenance or delayed capital improvements on the subject lines and associated equipment. This should include the schedule for eliminating such deferrals, details of general system rehabilitation (including rehabilitation relating to the transaction, such as proposed yard and terminal modifications), and how these activities will lead to service improvements or operating economies anticipated from the transaction.

Procedural Schedule. Applicants are directed to supplement their Application as discussed in this decision by November 21, 2023. Any person who wishes to participate in this proceeding as a Party of Record must file a notice of intent to participate no later than November 27, 2023; all comments, protests, requests for conditions, and any other evidence and argument in opposition to the Application, including filings by DOJ and DOT, must be filed by December 11, 2023; and responses to comments, protests, requests for conditions, and other opposition on the transportation merits of the Proposed Transaction must be filed by January 8, 2024.[16] The Board is required to issue ''a final decision by the 45th day after the date on which it concludes the evidentiary proceedings,'' 49 U.S.C. 11325(d)(2), and will do so here, subject to the completion of environmental review.[17] The Board reserves the right to adjust the schedule as circumstances may warrant. The adopted procedural schedule is in the Appendix to this decision.

Notice of Intent To Participate. Any person who wishes to participate in this proceeding as a Party of Record must file with the Board, no later than November 27, 2023, a notice of intent to participate, accompanied by a certificate of service indicating that the notice has been properly served on the Secretary of Transportation, the Attorney General of the United States, and Applicants' representative.

If a request is made in the notice of intent to participate to have more than one name added to the service list as a Party of Record representing a particular entity, the extra name(s) will be added to the service list as a ''Non-Party.'' Any person designated as a Non-Party will receive copies of Board decisions, orders, and notices but not copies of official filings. Persons seeking to change their status must accompany that request with a written certification that they have complied with the service requirements set forth at 49 CFR 1180.4 and any other requirements set forth in this decision.

Discovery. Discovery may begin immediately. The parties are encouraged to resolve all discovery matters expeditiously and amicably.

Service on Parties of Record. Each Party of Record will be required to serve upon all other Parties of Record, within 10 days of the service date of this decision, copies of all filings previously submitted by that party (to the extent such filings have not previously been served upon such other parties). Each Party of Record will also be required to file with the Board, within 10 days of the service date of this decision, a certificate of service indicating that the service required by the preceding sentence has been accomplished. Every filing made by a Party of Record after the service date of this decision must have its own certificate of service indicating that all Parties of Record on the service list have been served with a copy of the filing. Members of the United States Congress and Governors are not Parties of Record and need not be served with copies of filings, unless any Member or Governor has requested to be, and is designated as, a Party of Record.

Environmental Matters. NEPA requires that the Board take environmental considerations into account in its decision-making. Under the Board's environmental regulations, an acquisition under 49 U.S.C. 11323 generally requires the preparation of an EA where certain thresholds would be exceeded. *See* 49 CFR 1105.6(b)(4). The thresholds for assessing environmental impacts from increased rail traffic on rail lines in acquisitions are an increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains per day. 49 CFR 1105.7(e)(5). For air quality impacts, rail lines located in areas classified as being in ''nonattainment'' areas under the Clean Air Act (42 U.S.C. 7401–7671q) are also assessed if they would experience an increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three trains per day. 49 CFR 1105.7(e)(5)(ii).

In the Application, Applicants submitted environmental information,

[14] Origination/destination areas may be as broad as a state or group of states. CPKC shall provide a justification for whatever grouping metric it uses for its analysis and shall specify the gateway(s) used by traffic for the origination or destination areas.

[15] Information should include the total count of cars interchanged, categorized by two-digit Standard Transportation Commodity Code and broken out by interchange partner.

[16] Applicants propose a round of briefs due on the same day that the evidentiary record is statutorily required to close. (Appl. 8); *see also* 49 U.S.C. 11325(d)(2). But they provide no explanation as to the intent or necessity of these additional briefs, which are not contemplated by the governing statute or the Board's regulations. *See* 49 U.S.C. 11325(d)(2); 49 CFR 1180.4(e)(2). Accordingly, the Board has not included the proposed briefs in the procedural schedule adopted here.

[17] This notice will be published in the **Federal Register** on November 9, 2023, and all subsequent deadlines will be calculated from this date. Deadlines for filings are calculated in accordance with 49 CFR 1104.7(a).

including estimated volume increases on the Western Line by track segment (Exhibit 4). The estimated volume for each segment includes transaction-related projections for five years (through 2029), as well as no-action projections (traffic including increases that would occur without the Proposed Transaction). CPKC states that there would be a transaction-related increase of one train a day in each direction on the Western Line, an overall addition of two trains per day, which would result in an increase in gross-ton miles in excess of 100%. (Appl., Ex. 4, Env't Info. 41–42.) According to Applicants, the Proposed Transaction would not result in traffic being diverted to other transportation systems or modes. (Appl., Ex. 4, Env't Info. 40.)

The NEPA Process. OEA has reviewed the data provided by Applicants, including their traffic projections through 2029. Based on the current record, neither the 8-trains-per-day nor the 3-trains-per-day thresholds for environmental review will be exceeded as a result of the Proposed Transaction. However, because there will be an increase in gross-ton miles in excess of 100% on the line segments involved in the Proposed Transaction, the gross-ton mile threshold will be exceeded and therefore, OEA will prepare an EA. *See* 49 CFR 1105.7(e)(5)(i); 1105.10(b). For expediency and efficiency, OEA has determined that it is appropriate to prepare one EA to encompass both the Western Line and the Eastern Line (including the Burkeville-Montgomery segment) because these transactions involve contiguous segments of the same rail line; indeed, CPKC's acquisition of the Western Line is contingent on CSXT's acquisition of the Eastern Line, and both CPKC and CSXT provided volume forecasts showing exceedance of the gross-ton mile thresholds based on each transaction being authorized and implemented. (Appl., Ex. 4, Env't Info. 38); *see also* CSXT Appl., Ex. 4, Env't Info. 6–7, Oct. 6, 2023, *CSX Transp., Inc.—Acquis. & Operation—Rail Line of Meridian & Bigbee R.R.,* FD 36727. In addition, the environmental impacts from both transactions are expected to be very similar and both applications were filed at the same time, allowing environmental review of the two transactions to proceed simultaneously.

The EA process will address potential environmental impacts of activities associated with both the Western Line and the Eastern Line, including changes in rail line traffic and rail yard activity. OEA will prepare a Draft EA and issue it for public comment. Following the close of the comment period, OEA will prepare a Final EA. The Final EA will address the comments received on the Draft EA, present OEA's final conclusions regarding the potential environmental impacts of the transactions, and set forth OEA's final recommendations to the Board, including recommended environmental mitigation measures.[18] The Board then will consider the entire record, including the record on the transportation merits, the Draft EA, the Final EA, and all public comments received. In its final decision, the Board will decide whether the Proposed Transaction should be authorized and, if so, what conditions, including environmental mitigation conditions, to impose.

Historic Review. The Board's regulations provide that historic review normally is not required for acquisitions where there would be no significant change in operations and properties 50 years old and older would not be affected. *See* 49 CFR 1105.8. Based on the current record, no historic review is required.

Service of Decisions, Orders, and Notices. The Board will serve copies of its decisions, orders, and notices on those persons who are designated on the service list as a Party of Record or Non-Party. All other interested persons are encouraged to obtain copies of decisions, orders, and notices via the Board's website at *www.stb.gov.*

Access to Filings. Under the Board's rules, any document filed with the Board (including applications, pleadings, etc.) shall be promptly furnished to interested persons on request, unless subject to a protective order. 49 CFR 1180.4(a)(3). The Application and other filings in this proceeding will be furnished to interested persons upon request and will also be available on the Board's website at *www.stb.gov.* In addition, the Application may be obtained from Applicants' representative at the address indicated above.

It is ordered:

1. The Application filed in Docket No. FD 36732 and the related filings in Docket Nos. FD 36730 and FD 36731 are accepted for consideration.

2. Applicants shall file the supplemental information described above by November 21, 2023.

3. The filing in Docket No. AB 55 (Sub-No. 814X) is accepted to the extent discussed above. CSXT may file supplemental evidence and argument in support of an individual exemption in that docket by November 21, 2023.

4. The parties to this proceeding must comply with the procedural schedule shown in the Appendix to this decision and the procedural requirements described in this decision.

5. NSR's request to hold this proceeding in abeyance in denied.

6. This decision is effective on November 3, 2023.

Decided: November 3, 2023.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz. Board Member Schultz, joined by Board Member Fuchs, concurred with a separate expression.

Board Member Schultz, with whom Board Member Fuchs joins, concurring:

I agree that the Proposed Transaction should be classified as minor and that the record at this stage of the proceeding indicates that any anticompetitive effects of the Proposed Transaction will clearly be outweighed by the Proposed Transaction's anticipated contribution to the public interest in meeting significant transportation needs. On this record, I would not order Applicants to submit this extensive amount of supplemental information at this stage in the proceeding. While the Board has the authority to require the filing of supplemental information, the better course here would have been to assess whether any supplemental information is necessary after full analysis of all comments and requests for conditions and again after responses to those comments and requests, when the Board would benefit from the full views of shippers, railroads, and the broader public.

Jeffrey Herzig,

Clearance Clerk.

[18] The Board's general practice has been to mitigate only impacts resulting directly from a proposed transaction, and not to require mitigation for existing conditions and existing railroad operations. *See* 49 CFR 1180.1(f)(1).

Appendix

PROCEDURAL SCHEDULE

October 6, 2023	Application filed.
November 3, 2023	Board notice of acceptance of application served.
November 21, 2023	Applicants' supplemental information due.
November 27, 2023	Notices of intent to participate in this proceeding due.
December 11, 2023	All comments, protests, requests for conditions, and any other evidence and argument in opposition to the application, including filings of DOJ and DOT, due.
January 8, 2024	Responses to comments, protests, requests for conditions, and other opposition due. Rebuttal in support of the application due.
TBD	Record closes.
No later than 45 days after close of the record.	Date by which a final decision will be served.[1]
30 days after service	Board's decision becomes effective.

[1] Under 49 U.S.C. 11325(d)(2), the Board must issue its final decision within 45 days of the close of the evidentiary record. However, under NEPA, the Board may not issue a final decision until after the required environmental review is complete. In the event the environmental review process is not able to be concluded in sufficient time for the Board to meet the 45-day provision in section 11325(d)(2), the Board will issue a final decision as soon as possible after that process is complete.

[FR Doc. 2023–24818 Filed 11–8–23; 8:45 am]

BILLING CODE 4915–01–P

TENNESSEE VALLEY AUTHORITY

Sunshine Act Meetings

TIME AND DATE: 9:00 a.m. CT on November 9, 2023.

PLACE: Cadence Bank Center, 375 E Main Street, Tupelo, Mississippi.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Meeting No. 23–04

The TVA Board of Directors will hold a public meeting on November 9, 2023, at the Cadence Bank Center, 375 E Main Street, Tupelo, Mississippi.

The meeting will be called to order at 9:00 a.m. CT to consider the agenda items listed below. TVA management will answer questions from the news media following the Board meeting.

On November 8, at the Cadence Bank Center, the public may comment on any agenda item or subject at a board-hosted public listening session which begins at 2:00 p.m. CT and will last until 4:00 p.m. Preregistration is required to address the Board.

Agenda

1. Approval of minutes of the August 24, 2023 Board Meeting
2. Resolution Honoring the Late Barbara Haskew
3. Report of the Audit, Finance, Risk, and Cybersecurity Committee
   A. TVA's Insider Trading Policy
   B. Recovery Policy
4. Report of the Operations and Nuclear Oversight Committee
5. Report of the People and Governance Committee
   A. FY 2023 and FY 2024 Performance and Compensation
6. Report of the External Stakeholders and Regulation Committee
   A. Determination on PURPA Standards
7. Report from President and CEO

CONTACT PERSON FOR MORE INFORMATION: For more information: Please call Ashton Davies, TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: November 2, 2023.

Edward C. Meade,

Agency Liaison.

[FR Doc. 2023–24979 Filed 11–7–23; 4:15 pm]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2023–0047]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by January 8, 2024.

ADDRESSES: You may submit comments identified by DOT Docket ID Number 0047 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.*

Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Wendy McAbee, 202–366–5658, Office of Bridge and Structures, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, between 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Highway Bridge and National Bridge Inspection Programs (National Bridge Inspection Standards).

OMB Control #: 2125–0501.

Background: The Federal-aid Highway Program provides for the reimbursement to States for expenditure of State funds for eligible Federal-aid highway projects. The Voucher for Work Performed under Provisions of the Federal Aid and Federal Highway Acts as amended (Form PR–20) is utilized by the States to provide project financial data regarding the expenditure of State

funds and to request progress payments from the FHWA.

Respondents: 50 State Transportation Departments, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

Estimated Average Burden per Response: The respondents electronically submit an estimated total of 12,900 vouchers each year. Each voucher requires an estimated average of 30 minutes to complete.

Estimated Total Annual Burden Hours: Total estimated average annual burden is 6,450 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.48.

Issued on: November 6, 2023.

Jazmyne Lewis,

Information Collection Officer.

[FR Doc. 2023–24851 Filed 11–8–23; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2010–0044]

Trinity Railway Express's Request for Approval To Begin Field Testing on Its Positive Train Control Network

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that on October 28, 2023, Trinity Railway Express (TRE) submitted a request to field test trains on TRE's positive train control (PTC)-equipped Silver Line subdivision, which is equipped with the Interoperable Electronic Train Management System (I–ETMS). TRE's October 2023 test request also withdraws its pending test request that it had previously filed with FRA on August 29, 2023. FRA is publishing this notice and inviting public comment on TRE's request to test its PTC system on the Silver Line subdivision.

DATES: FRA will consider comments received by January 8, 2024. FRA may consider comments received after that date to the extent practicable and without delaying implementation of a PTC system.

ADDRESSES:

Comments: Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0044. For convenience, all active PTC documents are hyperlinked on FRA's website at *https://railroads.dot.gov/reserch-development/program-areas/train-control/ptc/railroads-ptc-dockets.* All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

FOR FURTHER INFORMATION CONTACT: Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

SUPPLEMENTARY INFORMATION: In general, Title 49 United States Code (U.S.C.) section 20157(h) requires FRA to certify that a host railroad's PTC system complies with title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. On December 23, 2020, FRA certified TRE's I–ETMS PTC system under 49 CFR 236.1015 and 49 U.S.C. 20157(h). Pursuant to 49 CFR 236.1035, a railroad must obtain FRA's approval before field testing an uncertified PTC system, or a product of an uncertified PTC system, or any regression testing of a certified PTC system on the general rail system. *See* 49 CFR 236.1035(a). On October 28, 2023, TRE withdrew its pending joint test request that it submitted on August 29, 2023, which had a comment period ending on November 13, 2023. *See* 88 FR 62426 (Sept. 11, 2023). TRE submitted a new test request that identifies the Silver Line subdivision as part of its own territory, rather than a separate entity. TRE's test request includes a complete description of TRE's Concept of Operations and its specific test procedures, including the measures that will be taken to ensure safety during testing. TRE's test request is available for review online at *https://www.regulations.gov* in Docket No. FRA–2010–0044.

Interested parties are invited to comment on TRE's test request by submitting written comments or data. During its review of the test request, FRA will consider any comments or data submitted within the timeline specified in this notice and to the extent practicable, without delaying testing of valuable or necessary modifications to a PTC system. *See* 49 CFR 236.1035. FRA, however, may elect not to respond to any particular comment, and under 49 CFR 236.1035, FRA maintains the authority to approve, approve with conditions, or deny the test request at its sole discretion.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.* To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

[FR Doc. 2023–24844 Filed 11–8–23; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee Public Meeting—November 28, 2023

ACTION: Notice of meeting.

Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for November 28, 2023.

FOR FURTHER INFORMATION CONTACT: Jennifer Warren, United States Mint Liaison to the CCAC; 801 9th Street NW,

Washington, DC 20220; or call 202–354–7208.

SUPPLEMENTARY INFORMATION: *Date:* November 28, 2023.

Time: 9 a.m. to 4:30 p.m. (EST).

Location: 2nd Floor Conference Rooms; United States Mint; 801 9th Street, NW; Washington, DC 20220.

Subject: Review and discussion of reverse candidate designs for the 2025 American Innovation $1 Coins honoring innovations in Michigan and Arkansas; review and discussion of obverse and reverse candidate designs for the Army Rangers of World War II Congressional Gold Medal; review and discussion of reverse candidate designs for the 2025 Native American $1 coin; review and discussion of obverse and reverse candidate designs for a national medal to be used by the Los Angeles 2028 Summer Olympic Games as the ''handover medallion'' during the closing ceremony of the 2024 Paris Summer Olympic Games; and review and discussion of Flowing Hair gold coin and silver medal.

Interested members of the public may either attend the meeting in person or watch the meeting live stream on YouTube at *https://www.youtube.com/channel/UC5nq6_7FAavGan-ZBgHCKyg/live*.

If you will be attending in person, please contact Jennifer Warren (*jennifer.warren@usmint.treas.gov*) no later than November 20, 2023. Members of the public interested in attending the meeting in person will be admitted into the meeting room a first-come, first-serve basis as space is limited. All persons entering a United States Mint facility must adhere to building security protocols. This means they must consent to the search of their persons and objects in their possession while on government grounds and when they enter and leave the facility and are prohibited from bringing into the facility weapons of any type, illegal drugs, drug paraphernalia, or contraband. Based upon Federal law, Treasury policy, United States Mint policy, and local operating procedures, the United States Mint Police Officer conducting the screening will evaluate whether an item may be brought in or taken from the Mint facility, and all prohibited and unauthorized items will be subject to confiscation and disposal. Members of the public must provide a government ID (*e.g.,* driver's license) to enter the Mint building.

Public should call the CCAC HOTLINE at (202) 354–7502 for the latest updates on meeting time and access information.

The CCAC advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals; advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made; and makes recommendations with respect to the mintage level for any commemorative coin recommended.

For members of the public interested in watching on-line or attending in person, this is a reminder that the public attendance is for observation purposes only. Members of the public may submit matters for the CCAC's consideration by email to *info@ccac.gov*.

For Accommodation Request: If you require an accommodation to watch the CCAC meeting, please contact the Office Equal Employment Opportunity by November 20, 2023. You may submit an email request to *Reasonable.Accommodations@usmint.treas.gov* or call 202–354–7260 or 1–888–646–8369 (TTY).

(Authority: 31 U.S.C. 5135(b)(8)(C))

Eric Anderson,

Executive Secretary, United States Mint.

[FR Doc. 2023–24754 Filed 11–8–23; 8:45 am]

BILLING CODE 4810–37–P

FEDERAL REGISTER

Vol. 88 Thursday,
No. 216 November 9, 2023

Part II

Federal Trade Commission

16 CFR Part 464
Trade Regulation Rule on Unfair or Deceptive Fees; Proposed Rule

FEDERAL TRADE COMMISSION

16 CFR Part 464

Trade Regulation Rule on Unfair or Deceptive Fees

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking; request for public comment.

SUMMARY: The Federal Trade Commission commences a rulemaking to promulgate a trade regulation rule entitled ''Rule on Unfair or Deceptive Fees,'' which would prohibit unfair or deceptive practices relating to fees for goods or services, specifically, misrepresenting the total costs of goods and services by omitting mandatory fees from advertised prices and misrepresenting the nature and purpose of fees. The Commission finds these unfair or deceptive practices relating to fees to be prevalent based on prior enforcement, the comments it received in response to an advance notice of proposed rulemaking, and other information discussed in this proposal. The Commission now solicits written comment, data, and arguments concerning the utility and scope of the trade regulation rule proposed in this notice of proposed rulemaking to prevent the identified unfair or deceptive practices.

DATES: Comments must be received on or before January 8, 2024.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Comment Submissions part of the **SUPPLEMENTARY INFORMATION** section in this preamble. Write ''Unfair or Deceptive Fees NPRM, R207011'' on your comment and file your comment online at *https://www.regulations.gov.* If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex J), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Janice Kopec or Stacy Cammarano, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 202–326–2550 (Kopec), 202–326–3308 (Cammarano), *jkopec@ftc.gov, scammarano@ftc.gov.*

SUPPLEMENTARY INFORMATION: The Federal Trade Commission (''FTC'' or ''Commission'') invites interested parties to submit data, views, and arguments on the proposed Rule on Unfair or Deceptive Fees and, specifically, on the questions set forth in Section X of this notice of proposed rulemaking (''NPRM''). The comment period will remain open until January 8, 2024.[1] To the extent practicable, all comments will be available on the public record and posted at the docket for this rulemaking on *https://www.regulations.gov.* The Commission will provide an opportunity for an informal hearing if an interested person requests to present their position orally. *See* 15 U.S.C. 57a(c). Any person interested in making a presentation at an informal hearing must submit a comment requesting to make an oral submission, and the request must identify the person's interests in the proceeding and indicate whether there are any disputed issues of material fact that need to be resolved during the hearing. *See* 16 CFR 1.11(e). The comment should also include a statement explaining why an informal hearing is warranted and a summary of any anticipated testimony. If the Commission schedules an informal hearing, either on its own initiative or in response to request by an interested party, a separate notice will issue. *See id.* at 1.12(a).

I. Background

The Commission published, on November 8, 2022, an Advance notice of proposed rulemaking (''ANPR'') under the authority of Section 18 of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 57a(b)(2); the provisions of Part 1, Subpart B, of the Commission's Rules of Practice, 16 CFR 1.7 through 1.20; and 5 U.S.C. 553.[2] This authority permits the Commission to promulgate, modify, or repeal trade regulation rules that define with specificity acts or practices that are unfair or deceptive in or affecting commerce within the meaning of Section 5(a)(1) of the FTC Act, 15 U.S.C. 45(a)(1).

The ANPR described the Commission's history of taking law enforcement action against, and educating consumers about, unfair or deceptive practices relating to fees, and it asked a series of questions to inform the Commission about whether such practices are prevalent and, if so, whether and how to proceed with a NPRM.[3] The Commission took comments for 60 days, extended the comment period,[4] and received over 12,000 comments, which it has thoroughly considered.

Based on the substance of these comments, as well as the Commission's history of enforcement and other information discussed in this preamble, the Commission has reason to believe that unfair or deceptive practices relating to fees are prevalent[5] and that proceeding with this rulemaking is in the public interest. After discussing the comments and explaining its considerations in developing the proposed rule, the Commission poses specific questions for comment and provides the text of its proposed rule.

II. Summary of Comments to the ANPR

The Commission received over 12,000 comments in response to the ANPR. Publicly posted comments are available on this rulemaking's docket at *https://www.regulations.gov/docket/FTC-2022-0069/comments.*[6] The majority of comments expressly supported government action or described negative experiences relating to fees that suggested support for such action. The comments generally supported a rulemaking to improve pricing transparency—including requiring advertised prices to include mandatory fees—and to prohibit misrepresentations about the nature, purpose, or amount of fees. The Commission has carefully considered the views expressed in the comments, and proposes the rule described in Section XIV.

As discussed in this preamble, the comments raised concerns about widespread deceptive practices in

[1] The Commission elects not to provide a separate, second comment period for rebuttal comments. *See* 16 CFR 1.11(e) (''The Commission may in its discretion provide for a separate rebuttal period following the comment period.'').

[2] Fed. Trade Comm'n, ANPR: Unfair or Deceptive Fees Trade Regulation Rule Commission Matter No. R207011, 87 FR 67413 (Nov. 8, 2022), *https://www.federalregister.gov/documents/2022/11/08/2022-24326/unfair-or-deceptive-fees-trade-regulation-rule-commission-matter-no-r207011* or *https://www.regulations.gov/document/FTC-2022-0069-0001.*

[3] *Id.*

[4] 88 FR 4796 (Jan. 25, 2023).

[5] *See* 15 U.S.C. 57a(b)(3) (''The Commission shall issue a notice of proposed rulemaking pursuant to paragraph (1)(A) only where it has reason to believe that the unfair or deceptive acts or practices which are the subject of the proposed rulemaking are prevalent.'').

[6] For Docket ID FTC–2022–0069, *Regulations.gov* lists the ''Number of Comments Posted to this Docket'' as 6,166 out of a total ''Number of Comments Received'' of 12,046. As noted in the responses to Frequently Asked Questions at *Regulations.gov*, ''Not every comment is made publicly available to read. Comment counts that refer to 'comments posted' reflect the number of comments that an agency has posted to *Regulations.gov* to be publicly viewable. Agencies may choose to redact or withhold certain submissions (or portions thereof) such as those containing private or proprietary information, inappropriate language, or duplicate/near duplicate examples of a mass-mail campaign. Therefore, the number of comments posted may be lower than the comments received.'' In connection with this docket, over 5,700 comments were a part of a single mass-mail campaign, which is represented in the posted comments by comment FTC–2022–0069–5989.

connection with fees. In particular, they raised concerns that sellers do not advertise the total amount consumers will have to pay and disclose fees only after consumers are well into purchasing transactions, harming both consumers and businesses. They also stated sellers misrepresent or do not adequately disclose the nature or purpose of fees, leaving consumers wondering what they are paying for or believing fees are arbitrary, and they are getting nothing for the fees charged.[7]

Commenters provided examples of these practices related to a wide array of goods and services, such as hotels, short-term lodging, ticket sales, rental housing, financial services, auto sales, internet service providers, and other market sectors. Many commenters addressed multiple sectors in a single comment. In this section, we discuss comments from individual commenters and other stakeholders, including consumer, policy, and industry groups, about these widespread practices. The breadth and number of comments strongly support a rule to tackle the harm caused to consumers and businesses from these practices across various industries, by requiring all-in pricing and other measures to prevent false and misleading representations about fees.

A. Overview of Prevalent Unfair or Deceptive Fee Practices Identified in Comments

1. Comments on Bait-and-Switch Tactics: Misrepresenting Total Costs by Omitting Mandatory Fees From Advertised Prices

Commenters stated businesses routinely engage in deceptive bait-and-switch pricing tactics by advertising prices that fail to include mandatory fees and that end up misrepresenting total prices because fees imposed later increase total prices significantly.[8] In many comments, mandatory add-on fees omitted from an initial offer were not disclosed until checkout,[9] and some comments raised concerns about advertisements that omitted key terms that required consumers to pay more to fully use the good or service.[10] They stated fees can inflate advertised prices by amounts that are large percentages of the base prices of goods or services.[11] Commenters described this bait-and-switch practice as misrepresenting the total costs consumers must pay and as false advertising that is deceptive and unfair to consumers, and asked the FTC to take action.[12]

[7] The comments also stated in large numbers that the amounts of fees charged are often excessive, increasing prices by large percentages and making purchases unaffordable, particularly, in the live-event ticketing industry. The rule proposed by the FTC does not limit the amount that businesses may charge for goods or services.

[8] FTC–2022–0069–1046 (''Consumers should not have to guess what their total outlay for a purchase will be . . . . Not revealing the true cost of something is deceptive and anti-competitive (How can you comparison-shop if you don't know the price?)''); FTC–2022–0069–1481 (''the price advertised is significantly less then [sic] the final price once convenience fees and other hidden fees with vague justifications are added to the cost''); FTC–2022–0069–2582 (''These fees serve to mask the true price of any service.''); FTC–2022–0069–3420 (delayed disclosures ''artificially lower prices''); FTC–2022–0069–3498 (''[O]nline businesses . . . advertise a low cost to attract attention, then add on a fee at checkout that eliminates any benefit from the initial advertised price.''); FTC–2022–0069–4064 (''In a time when information is readily available to hide it when it comes to costs is nefarious.''); FTC–2022–0069–4120 (''If the fees are not optional, they need to be included in the initial price; otherwise, it's false advertising[.]''); FTC–2022–0069–4724 (''It has gotten to the point that fees mis-represent [sic] the true cost of the product or service until after the purchase.''); FTC–2022–0069–6104 (''Advertising low prices and tacking on various fees is nothing more than bait and switch.'').

[9] FTC–2022–0069–0040 (describing additional mandatory fees disclosed at the checkout page in a live-event ticket purchase); FTC–2022–0069–0103 (describing additional mandatory fees disclosed at the hotel checkout); FTC–2022–0069–0120 (same); FTC–2022–0069–0116 (describing additional mandatory fees disclosed at the rental car checkout); FTC–2022–0069–0842 (describing late-disclosed fees in a variety of industries); FTC–2022–0069–1437 (describing late-disclosed fees in delivery applications and vacation rentals).

[10] FTC–2022–0069–1622 (describing subscription models to use features that are already part of a product); FTC–2022–0069–1915 (same); FTC–2022–0069–5913 (''We need to ban having subscription services attached to vehicle features, requiring you to pay monthly fees for items already installed in the vehicle.''); FTC–2022–0069–1638 (complaining of a video subscription service with undisclosed limitations on the shows included and requiring additional payments); FTC–2022–0069–5434 (describing recurring fees for rental apartments disclosed after the lease application was submitted); FTC–2022–0069–5419 (describing a gym membership with a late-disclosed policy of add-on fees, including extra charges to access classes); FTC–2022–0069–5353 (describing a security camera that requires additional purchases to use).

[11] FTC–2022–0069–0048 (''I've seen situations where the resort fee can be 2–3 times the 'room rate.' ''); FTC–2022–0069–1862 (''Norwegian Cruise Line recently increased their service charge to $20 per person per day. That's $560 for a week-long cruise for a family of four and accounts for 17% of the total cost of a cruise. It's clear that cruise lines have been increasing these fees to pay their workers more without increasing the base fare they advertise.''); FTC–2022–0069–2154 (''Often times these fees are a considerable percentage of the advertised price, and there is no obvious rationale for how they quantify these massive and varying amounts.''); FTC–2022–0069–3434 (''[C]ompanies should not be allowed to advertise one price and then tack on enough fees to almost double the cost to consumers.''); FTC–2022–0069–5892 (''a 'Processing fee' of $299.11, which is more than the total quoted price for a year's supply of contact lenses, is added to the order, increasing the total purchase price from $271.92 to $579.98. This clearly shows how these deceptive junk fees more than double the advertised price of a year's supply of contact lenses.'').

[12] FTC–2022–0069–3415 (''false advertising at best''); FTC–2022–0069–0111 (''a way to falsely advertise a lower price''); FTC–2022–0069–3435 (''Advertising one price when you know there is more to it, or more that you as a business will have to pay, is deceptive and unfair to the consumer[.]''); FTC–2022–0069–6167 (''Please put a STOP to this deceptive, dishonest practice'').

2. Comments on Misrepresenting the Nature and Purpose of Fees

Commenters stated consumers often do not know what fees are for because businesses routinely do not clearly or conspicuously disclose the nature or purpose of fees, including the identity of the goods or services for which the fees are charged.[13] Commenters explained that businesses employ vague names like convenience fees, economic impact fees, or improvement fees that do not adequately disclose to consumers what they are paying for.[14] Commenters also noted prices are sometimes advertised as ''free,'' but are not in fact free when fees are added.[15]

Commenters stated that, even when businesses purport to disclose the nature or purpose of fees, the disclosures may not be truthful. Commenters described fees as arbitrary and not bearing any reasonable relationship to the costs of goods or services provided.[16] Commenters stated fees provided them with little or no value, were not for goods or services they received, and were merely revenue sources for businesses.[17]

B. The Comments Show the Identified Deceptive Practices Are Widespread

The FTC received comments regarding a wide range of industries from individual commenters and consumer, policy, and industry groups. Individual commenters frequently raised concerns about these practices in connection with more than one industry in a single comment, with some describing the existence of mandatory, hidden, or misrepresented fees across the economy.[18] Although many individual commenters wrote about online purchases, they also noted that stores with physical locations also engage in advertising prices that do not include mandatory fees, and only later disclose fees using names that do not clearly inform consumers of the nature or purpose of fees.[19] Individual commenters noted that businesses also face undisclosed fees for which the nature or purpose is not clear.[20]

Consumer groups—the Consumer Federation of America, Consumer Reports, Truth in Advertising, UnidosUS, and the Institute for Policy Integrity—expressed support for rulemaking.[21] Although the U.S. Chamber of Commerce and the Association of National Advertisers

[13] FTC–2022–0069–0489 (''it is unclear what purpose they serve''); FTC–2022–0069–0493 (''fee system'' is ''clouded in secrecy''); FTC–2022–0069–0603 (''what are they for?''); FTC–2022–0069–1301 (''These fees are terrible, they're an added cost with no apparent purpose or meaning.''); FTC–2022–0069–1748 (''Besides ticketing sites, utilities have service fees, banks have statement fees, retail stores may have convenience fees, ride sharing apps have service fees, food delivery apps have service fees, and many other business types have fees that the consumer is expected to pay for without clarity to their purpose.''); FTC–2022–0069–1794 (''[h]aving a name for a fee [that] doesn't really describe what it does or why I have to pay it''); FTC–2022–0069–2187 (''[I]t seems too easy for companies across the spectrum to both 'hide' fees from the consumer in the initial pricing, but then also avoid explain [sic] to the purchaser what those fees are actually for.''); FTC–2022–0069–2189 (''it's often unclear what these fees are for''); FTC–2022–0069–2346 (''A reasonable person can't fathom what these 'fees' are for and most times these fees are not explicit in their purpose.''); FTC–2022–0069–3784 (''Not only are the fees added later, their [sic] is no insight as to what these fees are.''); FTC–2022–0069–2566 (''it has never been clear what they are actually for''); FTC–2022–0069–3148 (''Fees are going up and up and it's never clear what, exactly, they're being charged for.''); FTC–2022–0069–3686 (''organizations do not make the knowledge of what the fees are used for public, or at least accessible/obvious''); FTC–2022–0069–4067 (''It would be better also if an explanation of the fees and what their purpose is was present.'').

[14] FTC–2022–0069–1477 (''some secret convenience fee pushing the actual cost up''); FTC–2022–0069–1612 (''The fees are vague and there's not [sic] reason for them to not be included in the advertised price, unless the company is utilizing a marketing strategy with the intention of deceiving the customer.''); FTC–2022–0069–1947 (''Why are companies allowed to charge an abstract 'convenience fee' with no further explanation of what the fee is for?''); FTC–2022–0069–3766 (''restaurant . . . deceptively adds a 20% 'equity fee' to every bill instead of fairly displaying a price''); FTC–2022–0069–3880 (commenter wrote about a fluctuating ''Economic Impact Fee''); FTC–2022–0069–4405 (''From hotels to online delivery companies to service providers, it seems that nearly all companies are tackling [sic] on additional costs without explaining why they are necessary to provide the service.'').

[15] FTC–2022–0069–1676 (''Turbo tax. Waiting until I've done all of my paperwork to tell me that I need to upgrade my package to file.''); FTC–2022–0069–2986 (''the cruise line included room service at no charge,'' but ''they added a $9,95 [sic] plus 18% gratuity charge to all room service services''); FTC–2022–0069–0688 (''During on-line Christmas shopping, one company offered 'Free Shipping' as a promotion. At checkout, even though there was a $0 charge for 'Shipping', I was charged $2.99 for 'Shipping Service Fees'. How is this considered FREE shipping?'').

[16] FTC–2022–0069–2433 (''These fees are not representative of any actual cost of processing an electronic payment or other transaction and without regulation any price can be set arbitrarily resulting in extra cost to the consumer for no reason at all.''); FTC–2022–0069–2558 (''whatever fees they decide to make up''); FTC–2022–0069–3492 (Consumers are under the impression that ''fees do not cover any actual costs'').

[17] FTC–2022–0069–0605 (''just an unfair profit markup, there is not benefit or service for the ticket transaction''); FTC–2022–0069–0443 (''Pure income generation scams''); FTC–2022–0069–3664 (''fee is used merely to generate profit rather than cover a cost'').

[18] FTC–2022–0069–0450 (''As a consumer, I despise being duped with advertised pricing only to be alarmingly surprised at checkout that there are ancillary fees, convenience charges, special handling charges, resort fees, extended warranty charges, restocking fees, waste disposal fees, entry fees, exit fees, toll charges, health mandate fees, CRV fees, upgrade fees, downgrade fees, overweight baggage fees, extra baggage fees, additional BBQ sauce fees, monthly service fees if your balance falls below $xxx, overdraft fees, mystery gasoline tax for winter blends and/or summer blends, to-go bag and container fees, delivery fees, etc.''); FTC–2022–0069–0688 (''These fees in various forms, are appearing everywhere: through entertainment ticket sales, hotels and resorts, banks, credit card companies, car dealerships, on-line retail companies, etc.''); FTC–2022–0069–1634 (''Unduly forcing frivolous and intentionally vague monetary fees on anything, whether necessary (utility payments, rent, phone bills, etc.) or recreational (concerts, hotels, short-term rental properties, etc.) is unethical); FTC–2022–0069–1940 (''This is everything from Ticketmaster, ticket processing fees, doordash/food delivery, convenience fees, bank fees, landlords charging admin fees, restaurants charging a service surcharge, and many more. These hidden fees that are not upfront greatly affect consumers and do not give them the proper knowledge of the true cost upfront.''); FTC–2022–0069–3323 (''Hidden fees just feel way too common nowadays. Credit cards, software, subscriptions, travel, and the vast majority of other industries are making it too difficult for consumers to find the right business to work with.''); FTC–2022–0069–3374 (''Lately most companies are using hidden fees to falsely advertise low prices. Delivery companies, Ticketmaster, telecommunications companies, car dealerships, airbnb, rentals, hotels, credit card companies, banks, convenience fees for payment types, airlines, and others.''); FTC–2022–0069–3932 (''Consumers across so many industries are increasingly subject to fees that are not conveyed at the time of the purchase . . . surprise service fees in hospitality, surprise interest fees in financial services, surprise charges in healthcare that even insurance providers cannot explain''); FTC–2022–0069–5743 (''The FTC needs to regulate the transparency of prices for EVERYTHING, online and in person.'').

[19] FTC–2022–0069–0427 (Pottery shop ''receipt said C19 surcharge. What? I had to look it up. Never heard of it before now. . . . There was no signage about this extra surcharge. The sales clerk didn't say there would be extra fees.''); FTC–2022–0069–2242 (Grocery ''store charges a .5% 'improvement fee' that no employee can give me a straight answer as to why it exists.''); FTC–2022–0069–5616 (''there are some areas that have a 'Public improvement fee.' These are nice areas that I have no issue shopping at, but why do I not know what the fee is or where it is applied? These fees and taxes should be included in the listing price. Stores have price guns, so I know they can set the price on each item in the store.'').

[20] For example, individual commenters noted that merchant account payment processors charged previously undisclosed fees for no clear purpose. *See, e.g.,* FTC–2022–0069–1922 (''without warning or justification, we have been charged $149 for an 'annual compliance fee' and $169 for an 'annual member fee.' I assure you that these fees were not part of our original contract.''); FTC–2022–0069–6159 (''These, often bogus, fees go by many names and in some cases there are 'duplicate' fees for the same purpose only under different names on the same monthly statements.'').

[21] FTC–2022–0069–6077 (The Institute for Policy Integrity at New York University School of Law (''Policy Integrity'') submitted a comment in support of rulemaking); FTC–2022–0069–6095 (The Consumer Federation of America (''CFA'') submitted comments from 42 national and State consumer advocates, supporting FTC rulemaking); FTC–2022–0069–6042 (Truth in Advertising, Inc. (''*TINA.org*'') supports FTC rulemaking); FTC–2022–0069–6099 (Consumer Reports (''CR'') supports FTC rulemaking relating to junk fees, and joins the comment of CFA); FTC–2022–0069–6113 (UnidosUS, the nation's largest Hispanic civil rights and advocacy organization, submitted a comment in support of rulemaking, and endorsing the comment of the CFA.).

(''ANA'') argued the FTC has not presented evidence that unfair or deceptive practices related to fees are prevalent, and opposed rulemaking,[22] consumer groups raised concerns shared by individual commenters and provided information about existing regulations and legislation,[23] enforcement actions,[24] and studies and surveys,[25] demonstrating (along with other evidence described in this NPRM) that it is a prevalent practice for businesses to advertise prices that fail to disclose mandatory fees.[26]

The information presented by consumer groups shows that false advertising of total prices occurs across industries. Consumer Reports' 2018 WTFee?! Survey ''found that at least 85% of Americans have experienced a hidden or unexpected fee for a service in the previous two years, and 96% found them highly annoying'' and that ''[n]early two-thirds of those surveyed by [Consumer Reports] said they were paying more now in surprise charges than they did five years ago.'' [27] Truth in Advertising noted that hidden fees are a prevalent problem related to internet apps, automobile rentals, communications companies, event ticket sellers, carpet cleaners, auto dealers, dietary supplement sellers, restaurants, airlines, moving companies, credit unions and banks, payday lenders, gyms, hotel and travel companies, outlet stores, sports betting, and online auctions.[28] Some of the market sectors about which the FTC received comments are discussed in this section of the preamble.[29]

1. Hotel and Short-Term Lodging Fees

Individual commenters stated hotels, online travel agencies (''OTAs''), and vacation rental providers often do not include fees, such as hotel resort fees and vacation rental fees such as cleaning fees, in advertised nightly rates, artificially lowering the true cost of hotel rooms and rentals vis-a-vis competitors.[30] Other comments stated fees may be misrepresented, for example, fees charged as vacation rental cleaning fees when hosts require renters to clean accommodations.[31] Consumer Reports commented that hotels and OTAs have continued to charge hidden resort fees after the FTC issued warning letters in 2012.[32]

Comments from the lodging industry generally argued further regulation is not necessary because resort fees provide value to consumers [33] and the

[22] FTC–2022–0069–6047 (The U.S. Chamber of Commerce (''the Chamber'') did not support rulemaking, argued that fees rulemaking should be based on whether practices are unfair or deceptive under Section 5 of the FTC, not on a lack of remedies, such as monetary relief after AMG, and recommended that the FTC withdraw from rulemaking); FTC–2022–0069–6093 (ANA also did not support rulemaking.).

[23] Consumer groups noted that the Consumer Financial Protection Bureau, the Department of Transportation, and the Federal Communications Commission are tackling junk fees through regulation, and that the States are also tackling deceptive junk fees through legislation. *See, e.g.,* FTC–2022–0069–6095 (CFA discussed efforts by other Federal agencies (*e.g.,* CFPB, DOT, FCC) and New York legislation related to junk fees.).

[24] FTC–2022–0069–6095 (CFA cited enforcement actions that addressed deceptive practices relating to junk fees); FTC–2022–0069–6042 (*TINA.org* has tracked and published information about class-action lawsuits related to fees in various industries in its Class Action Tracker); FTC–2022–0069–6113 (UnidosUS cited enforcement actions regarding auto-dealer fees and subprime installment lending fees as evidence of problematic fees and unfair or deceptive practices.).

[25] FTC–2022–0069–6099 (CR discussed its *WTFee?! Survey, 2018 Nationally-Representative Multi-Mode Survey* of hidden fees in multiple sectors of the economy and the prevalence of unfair or deceptive fees practices in specific ''priority economic sectors,'' including telecommunications, travel, banking and financial services, automotive sales and services, utilities, retail sales and e-commerce, and live entertainment and sporting events.); FTC–2022–0069–6095 (CFA noted that the Washington Attorney General's Hidden Fee Survey showed that consumers experienced unexpected fees in a wide range of industries.); FTC–2022–0069–6113 (UnidosUS cited surveys or studies by UnidosUS, the Financial Health Network, and the Center for Responsible Lending that documented the impact of fees related to financial services products.).

[26] FTC–2022–0069–6095 (CFA provided information relating to the prevalence of unfair or deceptive practices relating to junk fees); FTC–2022–0069–6042 (*TINA.org* stated its ''work tracking and exposing junk and hidden fees makes clear that it is a pervasive problem that causes real financial harm to consumers''); FTC–2022–0069–6113 (UnidosUS endorsed the comment by the Consumer Federation of America in connection with that comment's discussion of evidence of how junk fees in connection with financial products and transactions, such as overdraft, auto-buying fees, mortgage delinquency-related fees, education tuition and loan fees, and installment loan fees, disproportionally harm low-income consumers, consumers of color, and those who are limited English proficient.).

[27] FTC–2022–0069–6099 (CR submitted its *WTFee?! Survey,* a related 2019 article, *Protect Yourself from Hidden Fees,* and ''consumer stories collected by CR in January 2023'' detailing many personal experiences with hidden fees). Another survey was published after the close of the comment period showed that a significant percentage of consumers encountered unexpected or hidden fees across a variety of industries, including telecommunications, utilities, auto loans and purchases, financial services, college tuition, hotels, rental cars, and live entertainment. Consumer Reports, *American Experiences Survey: A Nationally Representative Multi-Mode Survey* (April 2023), available at *https://article.images.consumerreports.org/image/upload/v1682544745/prod/content/dam/surveys/April__2023__AES__Toplines.pdf.*

[28] FTC–2022–0069–6042 (*TINA.org*).

[29] In addition to these market sectors, the FTC also received comments about many other market sectors, such as healthcare, subscriptions, electronic payment services, and utilities, and from other industry groups. For example, one industry commenter reported that remittance fees are often hidden in artificially inflated exchange rates and that the nature of these fees is not disclosed to consumers who do not have an adequate opportunity to comparison shop among different methods to transfer money. FTC–2022–0069–2523 (Wise supported rulemaking and recommended that any rule address pricing practices in cross-border payments (remittances)). Another industry commenter stated chain Fixed-Base Operators (''FBOs''), which are businesses or organizations which provide commercial aeronautical services, ''might disclose pricing for their services only after an aircraft has arrived at the Chain FBO or, even more troubling, after rendering the services[,]'' and therefore supported enhancing pricing transparency by requiring chain FBOs, to disclose pricing for their services before aircrafts arrive at airports. FTC–2022–0069–2615 (The Aircraft Owners and Pilots Association (''AOPA'') also stated some chain FBOs may also charge fees that ''often offer little or no added value or discernable benefit[.]'').

[30] FTC–2022–0069–0084 (''[Y]ou have hotels around the country that are now adding in destination fees, resort fees, etc. Not only are these fees hidden, they also add these fees to 'free' night stays.''); FTC–2022–0069–2350 (''Vacation accommodation platforms are becoming increasingly misleading with the listed price on the initial search nearly doubling by the time you reach checkout for fees that, by explanation, dont [sic] seem to differ from what you are already paying for; 'destination fee' and 'property service fee'. This practice seems to be common with most booking sites but I specifically use *Booking.com* so I will keep my complaint specific to their hidden fees. . . . [O]nce I reach checkout, the price has been increased by 78% to $853.10. This makes it impossible to search by cost on this site because these final hidden fees differ between accommodations and are not clearly explained why they exist in the first place. . . . I have called and discussed this with *Booking.com* and lodged a formal complaint but their response was that they have no control over this. I believe all of these fees should be listed up front as the final price when conducting a search comparing cost.''); FTC–2022–0069–3459 (''Lodging: Both hotels (including travel agencies) and short term private lodging (like AirBnB) falsely advertise low 'nightly rates' to appear better on upfront/initial comparison screens than alternatives. However, once you select them the fees can be 2x what the base rate is. This is blatant misrepresentation; they know the total cost and are hiding it.''); FTC–2022–0069–3469 (''Hotel 'Resort Fees' = When comparing prices online, calling, etc—If a hotel subtracts a fraction of the true cost and hides it in the back end (fees), it suddenly looks a lot more affordable in reservations searches.''); FTC–2022–0069–3484 (''Hotel hidden fees are insidious. They allow hotels to 'compete' with seemingly low rates, then use fees to increase the actual amount paid after you've already booked. . . . This results in significant increase in consumer burden to avoid fees or eat the additional cost, and stifles competition and innovation.'').

[31] FTC–2022–0069–1759 (commenter complained about ''mandatory charges that are not initially disclosed in listed pricing, cleaning fees for vacation home rentals after mandatory cleaning by the renter''); FTC–2022–0069–2131 (''Cleaning Fees for Airbnb; these fees significantly increase the price of the room, and it often involves hosts essentially charging guests to clean the room they stayed in.''); FTC–2022–0069–3470 (''Homes often ask you to clean before you go but then add several hundred dollars in cleaning fees.'').

[32] FTC–2022–0069–6099 (CR).

[33] FTC–2022–0069–6037 (American Hotel and Lodging Association (''AHLA'') stated resort fees at hotel properties provide guests with value that includes various goods and services); FTC–2022–0069–6057 (American Gaming Association (''AGA'') contended that resort fees provide value to consumers). The AHLA stated some of the data

Continued

industry already engages in pricing transparency.[34] However, these comments do not dispute that resort fee disclosures routinely occur after base room rates are advertised.[35] Some industry members cautioned that requiring all-in pricing may have unintended consequences,[36] and recommended that, if the FTC decides to proceed with a rulemaking, any rule apply across the board, online and offline, to all short-term lodging providers to provide a level playing field.[37]

2. Live-Event Ticket Fees

In connection with tickets for live entertainment, individual commenters noted that it is nearly impossible to obtain tickets at advertised prices because ticket sellers inflate these prices with fees.[38] Consumer Reports noted that hidden fees can increase the price of tickets by as much as 30% to 40%.[39] Individual commenters questioned the meaning of fees that are vaguely identified, such as ''convenience'' fees,[40] and the stated purposes of ticket fees. For example, individual commenters questioned whether processing fees really pay for ticket processing and whether delivery fees really pay for delivery expenses.[41] The comments opined that fees appear to be arbitrary.[42]

One ticket seller argued that State and Federal laws prohibiting unfair or deceptive trade practices already adequately address any problems with unfair or deceptive fees,[43] but most comments received from ticket sellers or entities representing them,[44] and from entities representing the interests of musicians, artists, managers, agents; [45] independent venues, promoters, festivals; [46] and audience groups; [47] expressed concerns about deceptive practices and supported a rulemaking with some conditions. Some of these comments noted that ticket sellers routinely do not disclose the total cost of tickets in advertising,[48] and that the

about resort fees that the FTC provided in the ANPR were incorrect. AHLA stated ''only 6% of hotels nationwide charge a mandatory resort/destination/amenity fee, at an average of $26 per night[,]'' and that ''80% of hotel-goers are willing to pay additional fees if doing so will provide access to certain amenities or better service.'' FTC–2022–0069–6037.

[34] FTC–2022–0069–6037 (AHLA stated ''[t]he hotel industry embraces a competitive business model that is driven by transparency and customer satisfaction'' and that hotels ''disclose resort and amenity fees at or before the time of booking.''); FTC–2022–0069–6111 (Travel Technology Association (Travel Tech) stated its members ''publish, disclose and share . . . rates, terms, and fees'' provided to them by accommodation suppliers and other travel service providers ''in a clear and conspicuous manner . . . prior to consumers completing their bookings.''); FTC–2022–0069–6057 (AGA stated businesses properly disclose ''how much and what the resort fee pays for'').

[35] FTC–2022–0069–6057 (AGA stated the disclosures occur after the base room rate is advertised (*i.e.,* ''typically no more than one screen following the base room rate, and at least one web page before consumers commit to the room and before any payment is required or made.'').

[36] FTC–2022–0069–6057 (AGA stated companies may roll resort fees into base room rates and not itemize fees to the detriment of consumers' ability to review amenities and services on offer and compare them with competitors and to the detriment of businesses' ability to distinguish themselves from competitors, for example, through loyalty programs that waive resort fees, a practice that the comment claimed would be difficult if itemized pricing were eliminated or limited).

[37] FTC–2022–0069–6037 (AHLA urged that any rule requirements proposed by the FTC apply to all industry participants, including ''the short-term rental market, metasearch sites, and online travel agencies ('OTAs')''); FTC–2022–0069–6111 (Travel Tech recommends that any regulation adopted by the FTC ''apply to any entity that supplies or advertises travel pricing information to consumers, including, for example, travel provider direct sites, metasearch, and both online and offline advertisements.'').

[38] FTC–2022–0069–0448 (''My wife and I regularly attend metal and punk concerts, and sometimes we cannot justify attending a show we thought we were going to attend because, rather than pay the amount we expected to pay, we are sometimes looking at $50 or more of additional costs and fees.''); FTC–2022–0069–0530 (''They wait until a buyer has waited in queues for long, stressful delays and spring substantial (nonsense) fees on them last minute knowing they are more likely to pay them than if they had been upfront with the cost of the purchase to begin with.''); FTC–2022–0069–1323 (''I personally am always very frustrated when I go to buy so something, like a concert ticket, and try to get the advertised price. It has never, in my entire life, been as simple as handing over $100 for a $100 ticket. It always ends up costing much more, whether through a fee to hand them the money, soem [sic] contrived surcharge, or simply outright undisclosed and wholly newly made up miscellaneous charges.''); FTC–2022–0069–2086 (''Time and time again, as a consumer I and many I know have been discouraged from purchasing things we like or going to events we wanted to, simply because the amount we had allocated based on the cost was not enough in the end due to hidden fees.''); FTC–2022–0069–2144 (''I also feel that it is deception to say a ticket is price X. Then when all the fees collapse on top of you that the total price is now $80–$100 more than price X PER ticket.''); FTC–2022–0069–2154 (''It is incredibly deceptive that a company can advertise a particular price for a ticket but then stack substantial fees at the end of the check-out process onto the consumer. Often times these fees are a considerable percentage of the advertised price, and there is no obvious rationale for how they quantify these massive and varying amounts.''); FTC–2022–0069–3128 (''A face value ticket can have fees that nearly equal the original price, making the end consumer cost nearly double the advertised price. This is unfair and deceptive practice.''); FTC–2022–0069–3595 (''It is uncommon to find tickets at advertised prices as [sic] Ticketmaster''); FTC–2022–0069–5435 (''Ticketmaster, StubHub, & other ticket retailers: These companies abuse the fact that there's limited competition in their industry, and tack on predatory fees during check out that can double or triple the originally advertised price of the ticket.''); FTC–2022–0069–5886 (''It is very disheartening to be told that the price of a ticket is one thing and then be met by service fees, convenience fees, and additional unknown fees that bring the price up to almost 2 times what the original price was listed at.''); FTC–2022–0069–5971 (''Ticketmaster routinely and repeatedly pulls a bait-and-switch with ticket pricing—and the size of their final price inflations are egregious, reaching 50%.'').

[39] FTC–2022–0069–6099 (CR).

[40] FTC–2022–0069–0226 (''The 'convenience' fees and processing fees charged by Ticketmaster and others, are not only inconvenient but excessive and provide no benefit.''); FTC–2022–0069–2281 (''These fees are often labeled as 'convenience fees', however they serve no real purpose and the consumer is often left with no other option.'').

[41] FTC–2022–0069–0603 (''How much money does it take for a computer to process a ticket order?''); FTC–2022–0069–2123 (''Ticketmaster is not printing physical tickets, yet charges a significant delivery fee''); FTC–2022–0069–2665 ('''order processing fee' . . . . fine. Whatever. Even though this is an automated software system that requires no additional time or effort for a human to process''); FTC–2022–0069–3500 (''ensure the scam of 'processing fees' is ended, because its [sic] all digital, there are no fees on their end''); FTC–2022–0069–3592 (''there is no reason for it to cost more to process a more expensive ticket'').

[42] FTC–2022–0069–1972 (''Something has to be done to protect consumers from runaway ticket prices and these unbelievable fees with no discernable or knowable purpose.''); FTC–2022–0069–2970 (''fees were added with no detail of why or for what purpose''); FTC–2022–0069–3571 (''fees often feel completely arbitrary . . . . the fees vary wildly depending on what show I'm purchasing tickets for''); FTC–2022–0069–0489 (''Although the fees are disclosed, it is unclear what purpose they serve.'').

[43] FTC–2022–0069–3347 (AXS opposed all-in pricing, arguing that it would be less transparent to consumers, and recommended that any rule require sellers to disclose to consumers whether the ticket is being sold ''from the artist/venue's official ticket seller, at the face price set by the artist or venue, or, alternatively, from a ticket broker or resale marketplace where ticket prices are set by the reseller.'').

[44] The following ticket sellers support rulemaking: FTC–2022–0069–6089 (National Association of Ticket Brokers (''NATB''); FTC–2022–0069–6078 (TickPick, LLC); FTC–2022–0069–6079 (StubHub). AXS Group LLC does not support a rulemaking. FTC–2022–0069–3347.

[45] FTC–2022–0069–6162 (Recording Academy recommends that any rule include strong protections for artists); FTC–2022–0069–6048 (Future of Music Coalition (''FMC'')); FTC–2022–0069–6041 (National Independent Talent Organization (''NITO'')).

[46] FTC–2022–0069–6046 (National Independent Venue Association); FTC–2022–0069–0501 (Annual International Ballet Festival of Miami and Cuban Classical Ballet of Miami).

[47] FTC–2022–0069–6110 (Sports Fans Coalition described harm to consumers from drip pricing); FTC–2022–0069–2581 (Dunsmoor Law, P.C.).

[48] FTC–2022–0069–6162 (The Recording Academy believes that the majority of concerts listed for sale in the United States do not disclose the total cost or mandatory fees in advertising, but that some sellers advertise a base cost ''plus fees''); FTC–2022–0069–6048 (FMC noted that ''pervasive problems currently exist where ticketing fees are not disclosed''); FTC–2022–0069–6078 (TickPick stated other jurisdictions have taken action against drip-pricing, including Canada which enacted a law providing that ''the making of a representation of a price that is not attainable due to fixed obligatory charges or fees constitutes a false or misleading representation, unless the obligatory charges or fees'' are imposed by the Canadian federal government or a provincial government (*e.g.,* taxes).'').

nature and purpose of fees is not always clear.[49] The comments emphasized that ticket fees raise competition issues separate from the deceptive advertising practices and recommended that the FTC address alleged anticompetitive practices that result in fees consumers consider excessive.[50]

Although entities in the ticketing sector argued that ticket fees are not ''junk'' fees, but provide value to consumers [51] and are already adequately disclosed,[52] a ticket seller in the secondary market, TickPick, disagreed. TickPick stated other members of the secondary market, including all of TickPick's larger peers, have gained a competitive advantage by omitting mandatory fees from the total cost of tickets in advertising and luring consumers with deceptively low prices only to impose substantial back-end fees, sometimes after customers provide payment information.[53] TickPick also noted that ticket sellers misrepresent the nature or purpose of their mandatory fees when fees do not provide anything of value to consumers and are used only to generate additional profit.[54]

Comments related to ticket sales supported greater pricing transparency with most supporting all-in pricing that specifies the full final cost to consumers including mandatory, but not optional, fees.[55] Most comments from ticket sellers supported all-in pricing if the requirement would apply to all ticket sellers to establish a level playing field.[56] They argued that, without a level playing field, businesses that display all-in pricing would be at a competitive disadvantage.[57] Many of these comments recommended that itemization of fees should also be required so consumers see a breakdown of the fees charged,[58] but one comment argued that itemization of fees harms consumers.[59] Some of these comments recommended an industry-neutral rule while others did not express an opinion.[60] The comments also noted the importance of FTC guidance and enforcement action relating to fees.[61]

3. Fees Related to Restaurants and Prepared Food and Grocery Delivery Apps

Individual commenters submitted many observations about restaurants and prepared food and grocery delivery services. They noted that restaurants routinely add fees to bills that were not

[49] FTC–2022–0069–6048 (FMC stated it ''can be challenging to distinguish between a fee that can reasonably be connected to an actual expense, and what is just tacked on to the ticket base price to provide a venue or ticketing company with an additional revenue stream.'')

[50] FTC–2022–0069–6065 (The Break Up Ticketmaster Coalition argued that Ticketmaster's market dominance, including in secondary markets, has resulted in excessive fees that consumers cannot reasonably avoid.); FTC–2022–0069–6162 (The Recording Academy recommended strong enforcement and improved regulation of the secondary ticket market, including requiring disclosure by resellers that tickets are resale tickets and that fees do not go to artists); FTC–2022–0069–6041 (NITO raised concerns that ticket fees are excessive, often as a result of the secondary market, and asked the FTC to take all measures within its authority to stop the growth of ticket fees for live events); FTC–2022–0069–6048 (FMC noted that it is a part of the Break Up Ticketmaster coalition and that it also broadly shares the concerns expressed in the comments by NITO and the Recording Academy, relating to problems stemming from secondary ticketing companies, and the importance of considering cultural diversity and community health, including the music community); FTC–2022–0069–0501 (Annual International Ballet Festival of Miami and Cuban Classical Ballet of Miami commented that Ticketmaster adds ''exorbitant fees . . . in some cases more than 20%'' to its ticket prices, resulting in many people not being able to afford tickets, ''particularly those with children or elderly'' and reducing ticket sales and profits); FTC–2022–0069–6110 (SFC noted a lack of competition among ticket sellers and problematic behavior in the secondary ticket marketplace, including transferability restrictions, disclosures of holdbacks, speculative ticket disclosures, and the use of bots, and recommended that the FTC conduct a 6(b) study of Ticketmaster/Live Nation's business conduct, and that the FTC support Federal and State legislation to address harm to consumers in ticket sales); FTC–2022–0069–2581 (Dunsmoor Law stated Ticketmaster's practices are harmful to artists and consumers, including dynamic pricing which ''makes it nearly impossible to comparison shop,'' and recommended that the FTC consider limiting fees and addressing Ticketmaster's monopolistic behavior.); FTC–2022–0069–6046 (NIVA stated apart from practices related to fees, secondary markets use predatory and deceptive practices in connection with ticket resales); FTC–2022–0069–6089 (NATB described the practice of holding back tickets or ''slow ticketing'' to be a deceptive marketing tactic that distorts the market and urged the FTC to require disclosures of how many tickets are available for sale, but argued that the transferability of tickets should be protected in any rulemaking.); FTC–2022–0069–6079 (StubHub expressed concerns regarding the lack of competition in the live events industry, and requested that the FTC investigate anticompetitive and anti-consumer behaviors in the industry brought about by the merger of Live Nation and Ticketmaster.).

[51] FTC–2022–0069–6046 (NIVA stated many fees add value, such as facilities fees charged by independent venues and promoters to pay for overhead costs such as staffing, rent, insurance, heating and cooling, repairs and maintenance, and property taxes, but notes that there are differences between facilities fees charged by independent venues and promoters and fees charged on secondary resale exchanges that do not support venues); FTC–2022–0069–6089 (NATB recommended that any rule differentiate between types of ticket fees, arguing that fees imposed by secondary ticket brokers account for a valuable service, while fees imposed by the original ticket sellers may not); FTC–2022–0069–6079 (StubHub objected to the characterization of fees it charges as ''junk'' or ''hidden'' fees because its service fees enable it to provide valuable services to StubHub users and partners); FTC–2022–0069–3347 (AXS argues that its fees provide value to consumers).

[52] FTC–2022–0069–6079 (StubHub stated its fees are transparent and fully disclosed before it collects payment information and before consumers complete transactions); FTC–2022–0069–3347 (AXS argued that its fees are adequately disclosed).

[53] FTC–2022–0069–6078 (TickPick).

[54] *Id.*

[55] FTC–2022–0069–6110 (Sports Fans Coalition); FTC–2022–0069–6041 (NITO): FTC–2022–0069–6046 (NIVA); FTC–2022–0069–6089 (NATB); FTC–2022–0069–6078 (TickPick); FTC–2022–0069–2581–A2 (Dunsmoor Law recommended that the FTC ''evaluate all possible legal outcomes from the disclosing of fees.''); FTC–2022–0069–6078 (TickPick supported model rule language proposed by the Institute for Policy Integrity with minor modifications, and proposed definitions for ''all–in price,'' ''unavoidable fee or charge,'' and ''avoidable fee or charge.''); FTC–2022–0069–6048 (FMC described music royalty fees that are a part of a subscription music service as an example of unavoidable or mandatory fees); FTC–2022–0069–6079 (StubHub supported Policy Integrity's recommendation to exclude fees for optional add-on purchases that are fully disclosed to consumers prior to payment).

[56] FTC–2022–0069–6089 (NATB commented that it will only be effective if applicable to all ticket sellers); FTC–2022–0069–6078 (TickPick); FTC–2022–0069–6079 (StubHub).

[57] FTC–2022–0069–6078 (TickPick stated its all-in pricing has not caused competitors to engage in the practice, that a competitor temporarily adopted all-in pricing but abandoned the practice after losing market share, and that regulatory intervention is necessary to establish an even playing field); FTC–2022–0069–6079 (StubHub stated that in 2014 it voluntarily began displaying all-in pricing to buyers, but this practice put StubHub at a disadvantage in comparison to competitors who did not display all-in pricing, causing StubHub to discontinue the practice).

[58] FTC–2022–0069–6162 (The Recording Academy recommended that any rule require the disclosure of the face value of tickets to avoid consumer misperception that artists are responsible for any increase in total cost that results from the rule); FTC–2022–0069–6048 (FMC recommended requiring full fee itemization so consumers can still see the base price so artists are not blamed for fees and can identify increases in fees); FTC–2022–0069–6041 (NITO's support for rulemaking is conditioned on requiring that ticket fees are clearly separated and itemized from the face value of the ticket); FTC–2022–0069–6046 (NIVA recommends requiring itemization of the face value of tickets and all fees so that consumers know what they are paying for); FTC–2022–0069–3347 (AXS recommended, if the FTC determines that a new rule is necessary, that instead of all-in pricing, the FTC require sellers to disclose all components of the ticket price).

[59] FTC–2022–0069–6078 (TickPick opposed itemization of fees and recommends that the all-in price be the only price a consumer sees in all advertising and marketing materials; itemization of fees is not helpful to consumers because the fees are contrived and only serve to mislead consumers and inhibit competition).

[60] FTC–2022–0069–6079 (StubHub supported an industry-neutral rule establishing price transparency across market sectors. StubHub supported a Federal solution, consistent enforcement of a rule with sufficient specificity to avoid varying interpretations.); FTC–2022–0069–6078 (TickPick reserved judgment on whether the rule should be industry-neutral or specific to the ticketing industry).

[61] FTC–2022–0069–6078 (TickPick recommended that the FTC create a procedure to provide staff interpretations and guidance regarding what constitutes an unavoidable fee); FTC–2022–0069–6048 (FMC recommended that the FTC take enforcement action in connection with live-event ticketing, and other instances of problematic fee practices); FTC–2022–0069–6089 (NATB commented that a rule will only be effective if the FTC undertakes rigorous enforcement).

previously disclosed, using various names (*e.g.,* ''service fee,'' ''hospitality fee,'' ''kitchen fee,'' ''equity fee,'' ''economic impact fee,'' ''temporary inflation fee'') that do not clearly or conspicuously identify their nature or purpose.[62] Commenters expressed particular concern about the true purpose of restaurant ''service'' charges, which they expected would go entirely to wait staff.[63] As these comments imply, while a restaurant's management may not keep tips received by its employees for any purposes,[64] no such prohibition exists for service fees imposed by a restaurant.[65] In connection with food delivery, individual commenters similarly stated delivery apps charge fees that are not reflected in advertised food prices,[66] and that the nature or purpose of these fees is not always clear or is misrepresented, for example, when fees identified as delivery fees do not go to delivery personnel.[67] The Consumer Federation of America noted that prepared food and grocery delivery apps have been the subject of law enforcement actions challenging misrepresentations relating to fees.[68]

4. Transportation Fees

Individual commenters made similar observations about transportation-related goods and services. They noted that airlines fail to include mandatory fees in advertised prices and misrepresent fees.[69] They also described advertising for car rentals [70] and car sales [71] that misrepresented total costs to consumers by delaying the disclosure of mandatory fees that inflated amounts consumers had to pay. The Consumer Federation of America noted that rental car companies impose fees that are not always clearly disclosed up front,[72] and that ''[d]ishonest auto dealers have an established history of failing to clearly disclose mandatory fees in their advertised prices.'' It noted that numerous State attorneys general have taken related enforcement action.[73]

Industry comments related to auto sales, including ancillary goods and services, did not support a rulemaking.[74] These comments stated that the definition of junk fees is too vague,[75] and questioned whether fees that are not mandatory because they relate to voluntary ancillary products offered as part of auto sales transactions (*e.g.,* voluntary protection products) would be covered by the ANPR definition of ''junk'' fees.[76] The comments stated that fees for ancillary

[62] FTC–2022–0069–3423 (''I don't know what the ''HOSPITALITY FE'' [sic] is for, but it doesn't appear anywhere on the menu of this restaurant we attended.''); FTC–2022–0069–3459 (restaurants ''started adding a 'kitchen fee' in the small foot notes of the menu. Why not just include this in the cost of the food. Otherwise all menu items can be misrepresented as very low and high fees added in the foot notes.''); FTC–2022–0069–3766 (restaurant ''deceptively adds a 20% 'equity fee' to every bill instead of fairly displaying a price.''); FTC–2022–0069–3880 (restaurant ''started putting an undisclosed 'Economic Impact Fee' on their bills''); FTC–2022–0069–3885 (''local businesses have been tacking on 'service fees' when ringing up at the register. This is most noticeable at restaurants, for dine-in, takeout, and delivery. The fees are not disclosed on the menu or anywhere at the physical establishments or on their websites before placing an order.''); FTC–2022–0069–4428 (''I would like to add that lately, I've seen the restaurant industry adding-on junk fees to post-meal restaurant bills named 'temporary inflation fee' or similar which are not disclaimed prior to eating. It's difficult to un-eat a meal if you disagree with these fees.''); FTC–2022–0069–5999 (''And restaurants that charge a surcharge fee for various things at the final bill which ate [sic] not disclosed on the menu or stated by the wait staff or posted at the door!'').

[63] FTC–2022–0069–0244 (''Another, more recent, development has been the addition of a 'service charge' on a restaurant check, calculated as a percent of the check total. Is this in place of a tip? Who receives it?''); FTC–2022–0069–1988 (''I visited a bar that had a sign which stated 'we add on a 20% service fee to all transactions which goes directly to the staff as a tip.' Then, on the payment screen, I was prompted AGAIN to tip for 15%, 20%, or 25% by the software.''); FTC–2022–0069–2131 (''Service Charges at restaurants. I am fine with these when 100% of the charge goes to the waiter, but it's not always clear and I've heard that many restaurants hold it for themselves.'').

[64] 29 CFR 531.52(b).

[65] *See* 29 CFR 531.52(a) (distinguishing tips—which are entirely at the discretion of the customer—from the payment of a charge made for service).

[66] FTC–2022–0069–2089 (''Many food delivery services, are deceptive in their pricing. . . . They are advertising a price much lower than it truly is''); FTC–2022–0069–2997 (''these companies add multiple different fees and charges to the final bill that are not seen until check-out''); FTC–2022–0069–4617 (''Doordash, Ubereats, Postmates, and every other food delivery app uses hidden fees to somehow make a $10 order double in price through several different fees that have no explanation as to what they are and there is no transparency on how much they will be when the customer is building their order.'').

[67] FTC–2022–0069–0581 (''Delivery app services similarly charge fees which are not clearly related to a service or function of the business''); FTC–2022–0069–1545 (''it isn't plainly clear that the fees are non refundable even when the company fails to properly provide the service they are charging you a fee to perform''); FTC–2022–0069–1672 (''why am I being charged a delivery fee for my food, when the fee doesn't go to the driver?''); FTC–2022–0069–2190 (''Charges extra fees without explanation. How are there 2 delivery fees?''); FTC–2022–0069–2316 (''The delivery fee I pay to the national pizza chain that doesn't go to the delivery person, instead I still have to tip the delivery driver because the fee doesn't go to him/her''); FTC–2022–0069–4400 (''I have to pay unexplained additional fees for delivery services that don't seem to have a good explanation when there is already a base fee and travel fee.'').

[68] FTC–2022–0069–6095 (CFA).

[69] FTC–2022–0069–0084 (''Airlines, if they are offering a 'free' flight, should ONLY charge you the fees charged by governments or airports. They shouldn't be taking on junk fees, fuel surcharges, etc.''); FTC–2022–0069–1676 (''Airline fees for bags, seats etc. Its [sic] not transparent until you get to the last page. Last minute fees for changes.''); FTC–2022–0069–3724 (''Airlines obscure the true price of tickets until the very end of the purchase process wasting customer's time in a cynical effort to leverage sunk cost biases so we just buy the misleading ticket price because we've spent the last 30 minutes filling in every detail.''); FTC–2022–0069–2055 (''I recently paid a 'plane usage' fee on plane ticket, purchased directly from the airline's website. This fee implies there's a possible travel option I could have booked that didn't involve flying, which is deceptive.'').

[70] FTC–2022–0069–0013 (''I recently reserved a rental car with a 'total' of $856. When I got to the final booking page, the total was $600 more. 'Total' should mean exactly that, all-in, no further charges.''); FTC–2022–0069–3459 (''Renting either a car or a moving van; they advertise $10/day. After all the fees which are standard and they are already aware of (nothing dependent on your choices) the actual cost is $40/day.''); FTC–2022–0069–3785 ''(For my rental car, I got charged a tourism commission fee, county bus license fee, customer facility charge, airport tram fee, vehicle license recovery fee, and concession recovery fee in addition to the base rate. Prices jump up to 30% higher when fee after fee is added''.).

[71] FTC–2022–0069–0688 (''It wasn't until we sat down to fill out the contract, that we were informed of an additional mandatory fee of $3,000 for a clear-coat finish.''); FTC–2022–0069–5435 (auto dealers ''tack on a number of fees during the contract process such as 'dealer fees' and 'transportation fees' that were not included in price discussions'').

[72] FTC–2022–0069–6095 (CFA).

[73] *Id.*

[74] FTC–2022–0069 6043 (The National Automobile Dealers Association (NADA) stated rulemaking is not necessary, and recommended advertising guidance and business education); FTC–2022–0069–6106 (American Property Casualty Insurance Association (APCIA) stated fees rulemaking would impact several industries and business activities, and suggested that the FTC engage in more stakeholder engagement and analysis of the marketplace before moving forward); FTC–2022–0069–6058 (The Service Contract Industry Council (SCIC), the Motor Vehicle Protection Products Association (MVPPA), and the Guaranteed Asset Protection Alliance (GAPA)); FTC–2022–0069–5983 (The Motorcycle Industry Council (MIC), the Specialty Vehicle Institute of America (SVIA), and the Recreational Off-Highway Vehicle Association (ROHVA)); FTC–2022–0069–0124 (The National Association of Mutual Insurance Companies (NAMIC) objected that the ANPR created a false impression that junk fees are a problem in the property casualty insurance market, including automobile insurance, and argued that the FTC may not have the jurisdiction to regulate fees in insurance). All of these commenters, except NAMIC, referenced comments they previously submitted in connection with the Motor Vehicle Dealers Trade Regulation Rule matter.

[75] FTC–2022–0069–6043 (NADA stated the scope of the ANPR requires clarification regarding the definition of ''junk'' fees, and proposed defining a ''junk'' fee as one that ''is mandatory and yet provides no additional benefit of any kind beyond that included in the advertised price of the specific good or service and does not have any other business justifications.''); FTC–2022–0069–6058 (SCIC, MVPPA, and GAPA argued that the definition of junk fees is too vague to provide any notice as to what the FTC may seek to regulate.).

[76] FTC–2022–0069–6106 (APCIA expressed concern that the definition of ''junk fees'' in the ANPR could unintentionally include products such as voluntary protection products (*i.e.,* VPPs) that have proven to be beneficial to consumers and are sold in a transparent manner); FTC–2022–0069–6058 (SCIC, MVPPA, and GAPA argued that fees for VPPs in auto sales do not meet the definition of junk fees.)

goods and services provide value to consumers.[77]

The comments from auto industry representatives stated the law already prohibits failing to disclose mandatory fees, and that fees are adequately disclosed.[78] Commenters stated ''total cost'' often varies in negotiated sales transactions and there is no clear reason why the disclosure of fees later in purchasing transactions should be deemed categorically deceptive or unfair because there are often good reasons why certain fees cannot be disclosed earlier in sales transactions.[79]

Comments noted that a fees rule could overlap or conflict with State and Federal laws and regulations.[80] Commenters recommended excluding auto dealers from a rule on unfair or deceptive fees because fees related to auto sales transactions are already the subject of the FTC's rulemaking in the Motor Vehicle Dealers Trade Regulation Rule (''proposed Motor Vehicle Dealers Rule'') matter.[81]

One commenter, the National Automobile Dealers Association (''NADA''), urged that, if the FTC proceeds with rulemaking, such a rulemaking should have ''a strict focus with clear rules on how to adequately disclose so as to avoid consumer harm.'' Any rule should not go beyond addressing the failure to disclose mandatory costs.[82]

5. Telecommunications Fees

Individual comments about telecommunications, including internet, television, and telephone services, noted that consumers are confronted with advertised rates that do not include mandatory fees, which are only disclosed after consumers contract for services and in ways that consumers find difficult to understand.[83]

Citing a Consumer Reports study and its own research, New America's Open Technology Institute (''OTI'') stated internet service providers routinely do not include internet service fees, such as installation and activation fees, equipment fees, penalties for exceeding data caps, and early termination fees, in advertised prices, and that these fees should be considered as part of the true monthly cost of internet service that should be incorporated into advertised prices or prohibited when they are arbitrary or do not reflect added value.[84] OTI supported a rulemaking to increase price transparency and eliminate junk fees that provide no value to consumers, particularly in connection with wireless and wired internet connections, and urged the FTC to consider standardized price disclosures across industries.[85] The Consumer Federation of America cited a review of internet bills by Consumer Reports that showed providers using terminology such as ''network enhancement fee,'' ''internet infrastructure fee,'' ''deregulated administration fee,'' and ''technology service fee,'' that made fees look like government-imposed, mandatory fees.[86]

The Rural Broadband Association (''NTCA'') noted that many internet service provider fees are related to mandatory government programs that provide value to consumers.[87] It argued that the FTC does not have jurisdiction over common carriers, and that broadband internet providers, while not common carriers, are already regulated by the FCC, and should be exempt from a fees rule.[88] NTCA acknowledged, however, that certain types of retransmission fees that are opaque to consumers because broadcasters' confidentiality terms preclude transparent explanation of the fees could be examined to determine whether greater transparency can be achieved without imposing burdens in the generation of invoices.[89]

6. Rental Housing Fees

Comments from individual consumers about rental housing fees stated leasing companies advertise monthly rents that do not include fees for mandatory ancillary services that unexpectedly and significantly increase renters' monthly expenditures.[90] The comments stated leasing companies do not always identify the purpose of these fees.[91]

[77] FTC–2022–0069–6106 (APCIA stated VPPs that motor vehicle dealers make available at the time of auto sales provide valuable services and benefits to consumers); FTC–2022–0069–6058 (SCIC, MVPPA, and GAPA argued that VPPs provide value to consumers by facilitating the filing of product claims and providing financial security). *See also supra* nn. 33, 51.

[78] FTC–2022–0069–6043 (NADA stated failing to disclose mandatory fees is already prohibited and opined that the FTC's desire to obtain authority for monetary relief is not a legally adequate basis for rulemaking.

[79] FTC–2022–0069–6043 (NADA); FTC–2022–0069–5983 (MIC, SVIA, and ROHVA argued that it would be burdensome for smaller powersports dealers to implement disclosure requirements); FTC–2022–0069–6058 (SCIC, MVPPA, and GAPA argued that the disclosure of all-in prices at the beginning of auto sale transactions is impracticable and likely impossible).

[80] FTC–2022–0069–6106 (APCIA noted that VPPs are subject to Truth in Lending Act Regulation Z as well as state lending laws similar to other voluntary products sold in connection with vehicle loans, and that an Unfair or Deceptive Fees rule would be duplicative and conflict with existing Federal and State laws and regulations); FTC–2022–0069–0124 (NAMIC noted that casualty insurance payments are strictly regulated by state insurance codes).

[81] FTC–2022–0069–6043 (NADA recommended that auto dealers be exempt from any fees rule ''given that the Proposed Vehicle Shopping Rule addresses this type of disclosure in a more comprehensive, and vastly different, manner.''); FTC–2022–0069–5983 (MIC, SVIA, and ROHVA recommended exempting powersports vehicle dealerships, including motorcycles, ATVs, and ROVs, from the rule and adopting an incremental response to regulation).

[82] FTC–2022–0069–6043 (NADA).

[83] FTC–2022–0069–0138 (cable ''fees do not appear on their advertised rates . . . to appear cheaper than they really are. In actuality it is impossible to subscribe at advertised rates.''); FTC–2022–0069–2124 (''Cell phone companies, advertise $69 dollars unlimited, my bill has never been under $100, carrier fees, service fees, premium data charges. If its [sic] impossible to access the $69 dollar charge then thats [sic] false advertising.''); FTC–2022–0069–2892 (''The advertised price from my cable package is $99.99 a month, so why am I paying $160 a month? I can understand the equipment rental fees, but the broadcasting and regional fees make no sense and seem to go up every time I turn around.''); FTC–2022–0069–2382 (''Often, consumers are not aware that their cable or internet bill includes a monthly 'rental' fee for the hardware modem that is provided by the cable or telephone company.''); FTC–2022–0069–5435 (''Spectrum, Comcast, Verizon, & other internet/cable/phone providers: The advertised price becomes bloated with unnecessary surcharges such as 'economic adjustment' fees and recurring charges to use their mandated hardware.''); FTC–2022–0069–5631 (telecommunication company ''charged a mandatory $9.95 'Technology Service Fee' and a $4.95 'Billing Fee' on top of their normal rates. It is absolutely a ploy to artificially advertise a lower monthly payment for service even though it's guaranteed to be no less than $14.90 higher every month than they say it's going to be.'').

[84] FTC–2022–0069–6087 (New America's Open Technology Institute (''OTI'')).

[85] *Id.*

[86] FTC–2022–0069–6095 (CFA).

[87] FTC–2022–0069–3393 (NTCA—The Rural Broadband Association (''NTCA'')).

[88] *Id.*

[89] *Id.*

[90] FTC–2022–0069–1391 (landlord ''charges for extra programs that I was not informed about nor able to opt out easily''); FTC–2022–0069–1677 (''In the realm of rental housing, any and all fees should be included into advertised rental prices.''); FTC–2022–0069–1717 (''when looking for apartment rentals, they are never honest about upfront costs until you sign a lease and get your first bill.''); FTC–2022–0069–1782 (''When we started getting the bills, we were being charged electric, common area, utility admin, and pest fees that were not disclosed upfront.''); FTC–2022–0069–2242 (''When renting my unit we were told the cost was $1500 utilities included and were completely strong armed at lease signing with the new cost of $1650 'to cover the utilities', and given 0 wiggle room or time to work out an alternate place to live.''); FTC–2022–0069–2858 (''Property management companies include excessive hidden fees that are not included in base rent and can make the cost of rent several hundred dollars more than what is advertised.''); FTC–2022–0069–4455 (''I am writing about the practice of apartment companies advertising misleading prices and including hidden fees for renters. . . . It is extremely widespread. I looked for a new apartment around north Dallas twice in the past year, and every single one I visited had mandatory monthly fees not included in the monthly rate and not listed at all on their website (at least not anywhere I saw).'').

[91] FTC–2022–0069–3129 (''Junk fees have become fundamentally ridiculous, especially as these companies cannot even describe what the fee is for. In my monthly rent, I have a $34 service fee (that

Continued

Consumer and policy groups noted that landlords do not adequately disclose many unavoidable fees or fail to explain the purpose of fees,[92] and supported a rulemaking pertaining to fees in connection with rental housing, including apartments, house rentals, and manufactured housing communities (''MHCs'').[93] The National Consumer Law Center (''NCLC'') conducted a survey of legal services and nonprofit attorneys that identified many unavoidable fees faced by tenants,[94] and recommended that the FTC require that online platforms for rental advertisements disclose all fees, including fees charged before and after signing rental leases.[95] Private Equity Stakeholder Project supported enhanced fee disclosure requirements and upfront disclosure of the costs of goods and services to protect consumers and the economy at large.[96] The comments also recommended that the FTC investigate unfair or deceptive practices related to housing fees [97] and provide guidance on fees.[98]

The comments also recommended that a rule prohibit certain rental-related fees as invalid per se because they are exploitative [99] and target captive renters who often come from vulnerable groups.[100] The comments stated fees make rental housing even more unaffordable and jeopardize access to future housing and financial stability.[101]

7. Education Fees

The comments further noted that institutions of higher learning often charge mandatory fees that are not included in advertised tuition fees.[102] The Consumer Federation of America noted that the rate of fees is increasing faster than the cost of tuition and non-transparent tuition and fee pricing models particularly affect Black and Indigenous communities and other communities of color.[103]

the . . . rental management company . . . has not been able to identify the reason for)'').

[92] FTC–2022–0069–6091 (NCLC argues that landlords fail to explain the purpose of fees.).

[93] FTC–2022–0069–6085 (Michigan Law School endorses NCLC's recommendations in connection with the rental housing market generally and recommends that the FTC investigate and regulate junk fees in the manufactured housing industry.)

[94] FTC–2022–0069–6091 (NCLC noted that the survey was conducted between November and December of 2022, and showed that tenants face an array of unavoidable fees, including rental application fees, sometimes charged even if landlords know applications will never be approved, excessive late fees, utilities-related fees, processing or administrative fees, convenience fees, insurance fees, notice fees, trash fees, pest control fees, technology fees, common area and amenity-related fees, inspection fees, and mail sorting fees.).

[95] FTC–2022–0069–6091 (NCLC).

[96] FTC–2022–0069–6094 (Private Equity Stakeholder Project (''PESP'')).

[97] FTC–2022–0069–6091 (NCLC recommends that the FTC investigate deceptive or unconscionable practices by corporate and large landlords that impose unavoidable and exploitative fees).

[98] FTC–2022–0069–6091 (NCLC recommends that the FTC develop guidance).

[99] FTC–2022–0069–6091 (NCLC stated corporate and large landlords often impose fees that are excessive in amount or greater than the cost to the landlord of providing a service, that are for services not provided, that are for services that landlords are legally obligated to provide as part of renting habitable premises, or that prevent competition); FTC–2022–0069–6094 (PESP recommended that the FTC identify specific fees charged by landlords that would be invalid per se and take strong enforcement action, and referred to the comment of the NCLC (FTC–2022–0069–6091) in identifying fees that should be invalid, including fees that are excessive in amount or greater than the cost to the landlord of a service, fees for services not provided, and fees for services that landlords are legally obligated to provide as part of renting habitable premises); FTC–2022–0069–6085 (Michigan Law School stated additional fees faced by tenants of MHCs include application fees that may violate or attempt to circumvent state laws that prohibit MHCs from imposing entrance fees, community rule violation fees, and unilateral increases in lot rent.).

[100] FTC–2022–0069–6085 (Michigan Law School notes that tenants in manufactured housing communities (MHC) are disproportionately low-income, disabled, and elderly, and are a captive audience of the owners of the land on which mobile homes sit.).

[101] FTC–2022–0069–6091 (NCLC).

[102] FTC–2022–0069–2288 (''This rule should apply to 'non-profit' institutions such as colleges and universities as they use them [fees] in the same predatory ways as for profit companies but have the advantage of exploiting a captive consumer population that is younger and naive.''); FTC–2022–0069–2616 (''Tuition bills for higher education have also added increasing amounts of charges with no opt-out's.''); FTC–2022–0069–4375 (University charged ''miscellaneous' fees that aren't included in the tuition cost. When looking at the price of tuition it is not included and is only seen on the final bill. When confronted they couldn't give an itemized list for the charge.'').

[103] FTC–2022–0069–6095 (CFA). *See also* FTC–2022–0069–6113 (UnidosUS endorsing the comment of the CFA).

8. Financial Services Fees

Individual commenters argued that fees charged in connection with bank accounts, credit cards, and other financial products are excessive and not adequately disclosed.[104] Consumer Reports noted that ''[a]ccording to the 2018 Consumer Reports national survey, 37% of consumers said they had received a hidden fee for personal banking in the previous two years, while 36% had received a hidden fee for credit cards and 24% for investment services.'' [105] Consumer groups noted that financial services fees are particularly burdensome to vulnerable, low-income, Black, and Latino consumers.[106]

Some comments from the consumer financial services industry supported a rulemaking to create a more transparent financial services sector and to address bad actors who mislead consumers about fees.[107] Other comments opposed a rulemaking.[108]

Industry comments recommended that the FTC clearly define or clarify the meaning of ''junk fees,'' [109] and objected that fees in the consumer financial sector are for legitimate services that add value to consumers [110] and are already adequately regulated by State and Federal laws.[111] For example, AFSA argued that there is already sufficient regulation of fees in the financial services sector, including through the Truth in Lending Act (''TILA''), the Real Estate Settlement Procedures Act (''RESPA''), the Truth in Savings Act (''TISA''), and the Consumer Financial Protection Act of 2010 (''CFPA'')).[112] Comments also stated competitive pressures within the industry tend to reduce fees.[113]

The comments stated fees in the consumer financial services market cannot be equated with fees charged in other markets, such as live event or resort fees.[114] They stated there may be

[104] FTC–2022–0069–0450 (''monthly service fees if your balance falls below $xxx, overdraft fees''); FTC–2022–0069–0488 (''Then there are the account fees, service fees, and atm fees at banks, which are ridiculous considering they loan out your money and pay a half a percent interest to you.''); FTC–2022–0069–0550 (''Junk fees manifest in markets ranging from auto financing to international calling cards and payday loans.''); FTC–2022–0069–1676 (''Banks charging overdraft fees and then when you link a credit card to cover the overdraft, the credit card charges you a fee. This can be for every single overdraft! Ridiculous!''); FTC–2022–0069–1974 (''I also am charged $12 anytime my savings account goes below 1500 dollars by chase bank.''); FTC–2022–0069–2131 (' 'Convenience' fees for paying bills online. A literal scam. It's more convenient for businesses to take electronic payments.''); FTC–2022–0069–5995 (''Fees to pay with a credit card when the fee wasn't posted or disclosed anywhere. Usually at least 3 to 5% of the total transaction and that would include taxes. It's insane. Prices not posted. Fees added. Consumers are being robbed at will.''); FTC–2022–0069–2262 (''Convenience fees in general are outrageous. It's 2023, credit cards and online payments aren't novel, they're the norm. Cable/internet companies do it (xfinity/Comcast and Cox). Cell phone companies do it, Verizon. It's outrageous.''); FTC–2022–0069–2312 (''Fees should also be collected in one place and easy to read. Some places like banks list fees but they're usually not collected in one place. You have to go looking for them. This feels a little hidden and anti-consumer.''); FTC–2022–0069–2729 (''When I opened a bank account at a small local bank they charged a monthly fee for even opening a savings account. They claimed this fee for 'maintenance' of the account.''); FTC–2022–0069–3052 (''My employer opened an HSA account for me at First Financial Bank. I started receiving statements in the mail that they took a monthly $3 paper statement fee out of my account, which I had not consented to. When I went online to change it to email statements, the first thing they made me do is accept an agreement saying that I acknowledge the validity of paper statement fees.''); FTC–2022–0069–3675 (''You know how sometimes you get those visa style gift cards that work as debit cards with the pre-loaded amounts? Some of those companies will charge you a monthly fee on those types of cards that isn't mentioned literally anywhere and that you won't know about until you go to check the balance and find out that they've literally been robbing you of your own money.''); FTC–2022–0069–3681 (''Some examples of companies that include hidden fees at significant cost to the consumer include: . . . USBank/Wells Fargo/BoA/WaFD Bank—Monthly maintenance fees/overdraft fees (These also disproportionately impact the poor).''); FTC–2022–0069–3932 (''Consumers across so many industries are increasingly subject to fees that are not conveyed at the time of the purchase . . . surprise service fees in hospitality, surprise interest fees in financial services, surprise charges in healthcare that even insurance providers cannot explain and are unwilling to pay themselves. Consumers should simply not be required to pay fees that were not agreed to and understood in advance.''); FTC–2022–0069–5652 (''Banks disclose their fees for 'overdraft protection' or 'insufficient funds fees' buried in a massive packet of information and on their websites. Meanwhile advertisements excitedly talk about interest rates or joining bonuses. Most banking customers find out about these fees when they are the most vulnerable: low on funds. They then have to pay nearly $30 for being poor.''); FTC–2022–0069–5896 (''Fees should be disclosed. Misleading ads that lure consumers in. Hidden disclosures that change to benefit financial is [sic] institutes and further burden consumers should be disclosed in larger print, and announced more than advertisements.'');

[105] FTC–2022–0069–6099 (CR also noted that, in March 2022, it asked its member to share experiences regarding junk financial fees, and collected over 1,800 comments identifying hidden financial fees, including overdraft and insufficient fund fees, account maintenance fees, late fees, dormancy and inactivity fees, check cashing fees, fees for minimum purchase transactions, fees for paper statements, and fees to pay bills).

[106] FTC–2022–0069–6095 (CFA noted that fees represent a disproportionately high cost to low-income consumers and may destabilize household budgets and ''ultimately push consumers out of mainstream financial products and into fringe financial services and predatory financial products.''); FTC–2022–0069–6113 (UnidosUS referenced a comment it submitted to the Consumer Financial Products Bureau, highlighting ways that junk fees in the financial system disproportionately impact Latinos and lower-income people.)

[107] FTC–2022–0069–6044 (The American Fintech Council (''AFC'') acknowledged and supported the FTC's jurisdiction over the issues raised in the ANPR and supported regulation that will create a fairer and more transparent financial services ecosystem to provide for sustainable access to credit and to foster responsible practices and fair lending in consumer financial markets); FTC–2022–0069–2623 (The American Land Title Association (''ALTA'') supported the FTC rulemaking to address bad actors who mislead consumers about fees). Some commenters framed their comments within the context of previous comments they submitted in connection with Motor Vehicle Trade Regulation Rule—Rulemaking, No. P204800. See FTC–2022–0069–6045 (The Credit Union National Association (''CUNA'') submitted a comment that referred to and incorporated its comment to Motor Vehicle Trade Regulation Rule—Rulemaking, No. P204800, in which it stated it supports ''the FTC's effort to develop a rule that addresses bad actors in the auto dealer market''); FTC–2022–0069–6114 (The Consumer Credit Industry Association (''CCIA'') similarly referred the FTC to its comments submitted in response to the Motor Vehicle Dealers Trade Regulation Proposed Rule).

[108] FTC–2022–0069–6090 (The American Financial Services Association (''AFSA'') opposed rulemaking and argued that the unfair or deceptive practices on which the FTC sought comment in the ANPR are not widespread in the consumer financial services market.).

[109] FTC–2022–0069–2623 (ALTA recommended that the FTC clearly define what ''junk'' fees are because the definition in the ANPRM is too broad); FTC–2022–0069–6114 (CCIA suggested that there is no objective standard for identifying junk fees for goods or services that have little or no added value to consumers); FTC–2022–0069–6045 (CUNA strongly urged the Commission to further clarify the definition of the term ''junk fee.'').

[110] FTC–2022–0069–2623 (ALTA noted that title insurance and settlement services fees commonly charged in real estate transactions are for legitimate services); FTC–2022–0069–6090 (AFSA argued that junk fees are misnamed because they provide value to consumers who are in the best position to determine whether fees add value to them through their purchasing decisions, and that such fees compensate financial services providers, including when they are placed in a worse position as a result of subsequent consumer action); FTC–2022–0069–6114 (CCIA commented that ancillary products offered in conjunction with auto financing loans provide value to consumers by protecting auto financing loans and consumer credit); FTC–2022–0069–6040 (Online Lenders Alliance (''OLA'') argued that three types of fees, mandatory fees, misconduct fees, and enhancement fees, have been mislabeled as junk fees by the Consumer Financial Protection Bureau); FTC–2022–0069–6045 (CUNA argued that describing fees as ''junk fees'' does a disservice to responsible actors like credit unions and their partners that charge well-disclosed fees to recoup costs and encourage positive behavior.).

[111] FTC–2022–0069–2623 (ALTA noted that title insurance and settlement services fees are highly regulated to provide protection for consumers and ensure that fees are adequately disclosed); FTC–2022–0069–6045 (CUNA); FTC–2022–0069–6114 (CCIA commented that Federal and State regulations adequately protect consumers by ensuring that their purchase of ancillary products is voluntary and express); FTC–2022–0069–6040 (OLA noted that the financial services sector is already heavily regulated and numerous types of fee disclosures are already required.).

[112] FTC–2022–0069–6090 (AFSA).

[113] FTC–2022–0069–6044 (AFC).

[114] FTC–2022–0069–6045 (CUNA stated fees in the heavily regulated consumer financial services market cannot be equated with opaque fees for live-event tickets or hotel resorts); FTC–2022–0069–6040 (OLA criticized oft-cited studies on fees, particularly, ''The Impact of Price Frames on Consumer Decision Making Experimental Evidence'' and ''The Competition Initiative And

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legitimate reasons for disclosing fees other than at the beginning of sales transactions.[115] The comments noted that regulating fees in the consumer financial services sector could have negative consequences such as limiting services and raising prices.[116] The comments stated the FTC should coordinate with other agencies to harmonize rules.[117]

9. Correctional Services Fees

Consumer and policy groups also commented on a number of unfair or deceptive practices regarding fees imposed on incarcerated people and supported rulemaking.[118] These comments stated that incarcerated people are a captive audience who are forced to pay excessive fees by monopolistic or oligopolistic service providers in connection with private correctional services.[119] Commenters stated these fees are often deceptive because service providers fail to comply with Federal disclosure requirements, omit fee information, and present pricing information in confusing ways that are likely to mislead consumers, for example, by bundling services that make identifying fees difficult.[120] Commenters also stated these fees are often unfair because they cause substantial harm to incarcerated people who are the least able to afford them, cannot reasonably be avoided because the consumers are captive to private companies with exclusive contracts, provide little or no added value to consumers, and do not benefit competition.[121]

C. Comment Recommendations

Many commenters argued that the prevalence of hidden fees cannot be effectively addressed by tools currently available to the FTC without a rulemaking.[122] The Consumer Federation of America argued that a rulemaking is necessary to address ''the root cause of the 'junk fee' problem—rampant deceptive advertising and impaired competition.'' [123]

The comments broadly supported FTC action to address the identified deceptive practices by requiring price transparency. Many individual commenters,[124] consumer groups,[125]

Hidden Fees,'' arguing that they are not applicable to fees in the financial services industry.).

[115] FTC–2022–0069–6114 (CCIA objected that fees are not hidden or deceptive if they are offered to consumers at different steps of the sales process because disclosing fees later in the process may be necessitated by the fact that consumers must first be approved for loans); FTC–2022–0069–6045 (CUNA noted that late fees are disclosed on fee schedules and only levied if payments are not rendered by their due dates.); FTC–2022–0069–6090 (AFSA argued that the FTC should not seek comments about how widespread certain unfair or deceptive practice are but should instead identify such widespread problems on its own.).

[116] FTC–2022–0069–6090 (AFSA claimed that limiting fees in the financial services sector would cool competition, raise prices, and harm consumers who do not use services but may be required to pay fees that are built into overall costs.); FTC–2022–0069–6045 (CUNA urged the FTC to avoid adopting regulatory changes that will negatively impact the ability of credit unions or their system partners from serving members.).

[117] FTC–2022–0069–6044 (AFC noted that the CFPB has jurisdiction over several topics addressed in the ANPR, as reflected in the CFPB's ''Request for Information Regarding Fees Imposed by Providers of Consumer Financial Products or Services,'' and recommended that the FTC coordinate with the CFPB and other relevant agencies to ensure that any rule fit within the FTC's jurisdictional authority and is not duplicative or contradictory of CFPB rules.).

[118] FTC–2022–0069–6088 (National Consumer Law Center submitted a comment on behalf of a group of civil rights, consumer rights, faith-based, criminal justice, and reentry organizations supporting rulemaking.); FTC–2022–0069–6082 (Fines and Fees Justice Center (''FFJC''), ''a national center for advocacy, policy, information, and collaboration on effective solutions to the unjust and harmful imposition and enforcement of fine and fees in the criminal legal system,'' submitted a comment in support of rulemaking, and noted that the CFPB and FCC are considering fees imposed on incarcerated persons.).

[119] FTC–2022–0069–6088 (NCLC noted that these services include money-transfer services, release cards, and various technology services, including technologies incarcerated people use to communicate with loved ones, such as electronic messaging services.); FTC–2022–0069–6082 (FFJC noted that these correctional services include money transfers, release cards, and technology services, such as phone calls, emails, tablets, and music and e-book subscriptions, and that providers often charge fees far in excess of the cost of the services to the companies providing them.).

[120] FTC–2022–0069–6088 (NCLC); FTC–2022–0069–6082 (FFJC).

[121] *Id.*

[122] FTC–2022–0069–6095 (CFA noted that AMG prevents the FTC from seeking monetary relief under Section 13(b) of the FTC Act, and that consumer contracts requiring arbitration would not deter misconduct or provide appropriate remedies for unfair and deceptive junk fee conduct.); FTC–2022–0069–6042 (TINA.org stated the prevalence of junk and hidden fees cannot be effectively addressed by tools currently available to the FTC, particularly in the wake of the AMG decision, and that a junk fees rule would be in the public's best interest.).

[123] FTC–2022–0069–6095 (CFA noted that advertising deceptively low prices then tacking on mandatory fees harms honest businesses and consumers, and disproportionately impacts vulnerable consumers, limited English-speaking consumers, and consumers with disabilities.).

[124] FTC–2022–0069–0032 (''I agree with the proposed rule and requiring all unavoidable fees, including taxes, be included in the published price.''); FTC–2022–0069–0117 (''I wholeheartedly support the FTC's proposal to force companies to show ALL mandatory fees and charges in the initial price search or quote.''); FTC–2022–0069–0457 (''Forcing all fees to appear in any advertised price would be a help. Prohibition of those fees would be even better''); FTC–2022–0069–1087 (''Except with respect to taxes and voluntary add-ons which exceed normal expectations, no one should be able to legally charge more than the price they advertise.''); FTC–2022–0069–2144 (''Not just for ticket master but for all companies. Put the real price up front and don't hide behind other fees you earmark 2/3rds of the way down the page.''); FTC–2022–0069–2178 (''All fees and charges should always be clear and upfront in the price. Nothing should be hidden. It is deceptive to state otherwise.''); FTC–2022–0069–3017 (''[T]he rule should require all-in pricing, because that is the simplest and most honest way to disclose the actual cost to the consumer.''); FTC–2022–0069–3083 (''MAKE ALL BUSINESSES SHOW THE REAL TRUE PRICE (TAX INCLUDED) ON THE LABEL AT EVERY STORE AND BUSINESS IN THE UNITED STATES.''); FTC–2022–0069–3423 (''I urge the FTC to act to bring these business practices in line with the customary way business has been conducted in our society in stores for a very long time by banning the practice and requiring listed and/or advertised prices to include all costs, beginning with the first time the price is presented to customers.''); FTC–2022–0069–3459 ('' Please move towards upfront pricing, for all taxes, service charges and other charges that are standard should be included in the first price you see.''); FTC–2022–0069–3469 (''The only way, in my opinion, to solve this problem is to implement a rule/law where the ONLY additional charges allowed for an invoice or service is GOVERNMENT fees and taxes. . . . There would be no additional costs incurred by a business/service to change to this rule, just a change forcing them to advertise the TRUE COST for using their service or business.''); FTC–2022–0069–3659 (''Please have merchants show the actual final cost of a product or service as opposed to providing a sale price and then adding additional charges.''); FTC–2022–0069–3708 (''Companies should be required to show the TOTAL price, including all applicable fees, on any advertisements or listings on their website.''); FTC–2022–0069–3746 (''The total cost of an e-commerce purchase should be required to be displayed alongside the listing for the item.''); FTC–2022–0069–3859 (''Corporations should be mandated to advertise full-prices including fees.''); FTC–2022–0069–4151 (''Every company in every scenario possible should be forced to advertise only the true combined total cost.''); FTC–2022–0069–4176 (''Please step up and make retailera [sic] at all levels advertise the real true cost of their goods and services so consumers can make reasonable choices without being lured or baited and switched.''); FTC–2022–0069–4252 (''Everyday, I am lured into a transaction, told I am going to pay one price, only to have it raised by a large percentage at checkout due to fees that are non-negotiable or part of processing. If these are standard fees, they need to be added to the price of the item, service etc. These are a bait and switch tactic that I don't know how became legal.''); FTC–2022–0069–4253 (''What's the point of a price if that's not the price? Advertised price should be the finial [sic] price. Nothing more nothing less.''); FTC–2022–0069–4255 (''Fees should be transparent and included in advertised prices. This should go for everything from airbnb rentals, to airfare, to concert tickets, to retail, to grocery stores. The price you see advertised should be the price you pay.''); FTC–2022–0069–5144 (''All business should be legally required to post the all-in or 'total' price of goods, including taxes and fees. Many other countries practice this, promoting transparency and allowing the consumer to shop with clear pricing.''); FTC–2022–0069–5332 (''[T]he advertised/shown price should be the price.''); FTC–2022–0069–5517 (''We need price transparency for the services we buy. I advocate for requiring all services to be forced to advertise and display FINAL prices, after all fees.''); FTC–2022–0069–5692 (''Taxes and fees should be included in the listed price every time. This is for every service and every good everywhere in the country. This should be for every label, advertisement, coupon, and other reasonable statement of price.'').

[125] FTC–2022–0069–6095 (CFA supports an industry-neutral rule requiring disclosure of all-in pricing, including all fees that are unavoidable or mandatory, at the beginning of transactions to allow

industry members [126] recommended an industry-neutral rule requiring the disclosure of all-in pricing that includes all mandatory fees.

Many individual commenters and consumer groups, concerned with the cumulative impact of fees, also recommended that the FTC prohibit or limit fees, such as fees that are of little to no value to consumers,[127] or require that fees bear a reasonable relationship to the cost of the services provided.[128] Some consumer groups recommended that the rule incorporate a reasonable consumer standard and that the FTC develop model fee disclosures.[129]

The U.S. Chamber of Commerce and the Association of National Advertisers argued that Congress has not authorized comprehensive unfair or deceptive fees rulemaking, and that the ANPR is too broad to comply with rulemaking procedures.[130] They acknowledged that existing FTC rules include disclosure requirements related to pricing, citing the Telemarketing Sales Rule, the Restore Online Shoppers' Confidence Act, and the Funeral Rule, but objected that the FTC has not shown that existing rules are insufficient to protect consumers or explained how a proposed rule would work with other rules.[131] They also objected to an economy-wide rule because it would overlap with industry-specific rules and recommended that the FTC narrowly tailor rulemaking to specific industries engaging in unfair or deceptive practices.[132] ANA recommended alternatives to rulemaking, such as industry-specific workshops, consumer and business education, and individual enforcement actions.[133]

Other commenters disagreed. For example, Policy Integrity argued that the FTC has clear congressional authority to tackle deceptive or unfair practices through rulemaking, and that doing so would not supersede that authority.[134] Policy Integrity pointed out that FTC rulemaking relating to all-in pricing would be in keeping with other FTC rules that relate to unfair or deceptive fee disclosure practices, such as the Unavailability Rule or Raincheck Rule, the Funeral Rule, the Negative Option Rule, the Mail, internet, or Telephone Order Merchandise Rule, and the Cooling-Off Rule.[135] Policy Integrity pointed out that these FTC rules ''imposed disclosure requirements targeting unfair and deceptive fee-disclosure practices that apply to a vast number of entities across numerous industries, similar to its present effort to regulate junk fees and hidden fees.'' [136]

III. Prevalence of Unfair and Deceptive Fee Practices

This proposed rule addresses prevalent fee practices that are unlawful under Section 5 of the FTC Act, 15 U.S.C. 45, because they are unfair or deceptive to consumers. The Commission has identified two practices that, for the reasons described herein, are unfair or deceptive practices under Section 5 of the FTC Act: (1) practices that misrepresent the total costs by omitting mandatory fees from advertised prices, and (2) practices that misrepresent the nature and purpose of fees or charges. The comments received in response to the ANPR and the Commission's history of enforcement actions and other complementary work, discussed in Section III.C, demonstrate the prevalence of these practices.[137]

As shown in the comments received, advertising misrepresentations and unlawful practices related to pricing and added fees are chronic problems confronting consumers. These problems are prolific and occur across industries affecting a large majority of the population.[138] The FTC uses its authority under Section 5 to stop deceptive or unfair acts or practices. A representation, omission, or practice is deceptive if it is likely to mislead consumers acting reasonably under the circumstances and is material to consumers—that is, it would likely affect the consumer's conduct or decisions with regard to a product or service.[139] False and misleading statements are unlawful regardless of an intent to deceive.[140] Some deception cases involve omission of material information, the disclosure of which is necessary to prevent the claim, practice, or sale from being misleading.[141] A practice is considered unfair under Section 5 if: (1) it causes, or is likely to

consumers to comparison shop and foster competition); FTC–2022–0069–6099 (CR recommended, as an alternative to prohibiting fees, requiring the clear, upfront disclosure of fees, stated consumers ''would greatly benefit from a comprehensive national rule to ban hidden and surprise junk fees and improve the transparency and comparability of any truly optional add-on services,'' and advocated for a ''strong economy-wide initiative'' to create ''marketplace standards and ethical norms . . . in all or most economic sectors''); FTC–2022–0069–6113 (UnidosUS endorsed the recommendation of the CFA for a rule that requires ''all-in'' pricing for goods and services at the beginning of purchase transactions, and that the rule identify prohibited unfair and deceptive conduct relating to junk and hidden fees).

[126] *See* Section II.B.

[127] FTC–2022–0069–6095 (CFA recommended that fees that provide little or no value to consumers or which consumers reasonably believe would be included in advertised prices should be prohibited); FTC–2022–0069–6099 (CR commented that junk fees that add little or no value or would reasonably be included in the base price of goods or services should be reduced or banned).

[128] FTC–2022–0069–6099 (CR recommended, as an alternative to prohibiting fees, that fees ''bear a reasonable and proportionate relationship to the underlying costs of providing the particular service for which they are charged.'').

[129] FTC–2022–0069–6095 (CFA recommended that the FTC develop model fee disclosures); FTC–2022–0069–6113 (UnidosUS recommended that a rule require disclosures that take into account consumers' language proficiency, include model fees disclosures, and incorporate a reasonable consumer standard).

[130] FTC–2022–0069–6047 (The Chamber stated the proposed rulemaking implicates the Major Questions Doctrine, Congress has not clearly authorized comprehensive unfair and deceptive fees rulemaking, and the proposed rulemaking does not meet the requirements of the FTC Act and would constitute unauthorized competition rulemaking to the extent it relates to concerns about monopoly and anticompetitive behavior. The Chamber also stated the FTC has not shown practices related to fees are unfair because requiring extensive fee disclosures upfront would harm businesses without countervailing benefits to consumers.).

[131] FTC–2022–0069–6047 (The Chamber stated the FTC has not explained how existing rules are ''insufficient from a deterrence or consumer-protection standpoint.''); FTC–2022–0069–6093 (ANA stated the ANPR fails to discuss how the proposed rulemaking will apply when it overlaps with existing regulations related to advertising and disclosures.). The Commission addresses and seeks comment on other rules with disclosure requirements related to pricing information in Sections IX.C and X.

[132] FTC–2022–0069–6047 (The Chamber stated an economy-wide rule would likely overlap with existing sectoral rules); FTC–2022–0069–6093 (ANA urged the FTC to identify specific industries engaging in unfair or deceptive practices and narrowly tailor rulemaking to those industries.).

[133] FTC–2022–0069–6093 (ANA).

[134] FTC–2022–0069–6077 (Policy Integrity argued that the FTC has clear congressional authorization in the FTC Act to tackle deceptive practices related to fees under Section 5(a) and unfair practices under Section 5(n), and that regulating junk fees, hidden fees, and related practices would not implicate the Major Questions Doctrine because FTC regulatory and enforcement antecedents demonstrate that FTC action in this area would not be ''unheralded'' and would not represent a ''transformative'' change in the FTC's authority, under *West Virginia* v. *EPA*.).

[135] FTC–2022–0069–6077 (Policy Integrity argued that FTC rulemaking related to all-in pricing would not be ''unheralded'' under *West Virginia* v. *EPA* given prior rulemaking related to pricing disclosures.).

[136] FTC–2022–0069–6077 (Policy Integrity).

[137] The Commission can support a finding that practices are prevalent by showing that it has issued cease and desist orders or by providing information that indicates a widespread pattern of unfair or deceptive acts or practices. 15 U.S.C. 57a(b)(3).

[138] FTC–2022–0069–6095 (describing a survey in which 85% of respondents encountered fees that were not initially disclosed and listing a range of industries in which the fees occurred); *supra* Section II.B.

[139] *See* Fed. Trade Comm'n, *FTC Policy Statement on Deception,* 103 F.T.C. 174, 175 (1984) (appended to *In re Cliffdale Assocs., Inc.,* 103 F.T.C. 110, 183 (1984)), (hereinafter ''Deception Policy Statement''), *https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptionstmt.pdf.*

[140] *In re Sears, Roebuck & Co.,* 95 F.T.C. 406, 517 n. 9 (1980) (citing *Regina Corp.* v. *FTC,* 322 F.2d 765, 768 (3d Cir. 1963)).

[141] *Id.* at 175 & 175 n. 4, 176–77.

cause, substantial injury; (2) the injury is not reasonably avoidable by consumers; and, (3) the injury is not outweighed by benefits to consumers or competition.[142]

A. Bait-and-Switch Tactics: Misrepresenting Total Costs by Omitting Mandatory Fees From Advertised Prices

The comment record supports a finding that bait-and-switch pricing practices are prevalent. Specifically, commenters identified pricing structures that do not disclose the total price for goods or services, but instead advertise a lower cost to consumers that is ultimately inflated by mandatory charges.[143] These pricing structures take a variety of forms, including pure misrepresentations through initial advertisements displaying a lower price, advertisements that inadequately disclose mandatory add-on charges,[144] tactics that disclose mandatory add-on charges late in the purchasing process, and sales that omit material terms such as requiring an additional purchase to make full use of the good or service.[145] All of these practices render the quoted price misleading because they lead consumers to believe that the cost for the good or service is lower than it actually is—put another way, the advertised good or service is not actually attainable for the quoted price.

Pricing structures that do not initially disclose the total cost of a good or service are deceptive even if the total cost is disclosed at some point during the transaction. It has long been the FTC's position that misleading door openers are deceptive.[146] Further, numerous courts have recognized that it is a violation of the FTC Act if a consumer's first contact is induced through deception, even if the truth is clarified prior to purchase.[147] Thus, when the initial contact with a consumer shows a lower or partial price without disclosing the total cost, it violates the FTC Act even if the total cost is later disclosed.

It is also well established that it is deceptive to sell a product that is not fit for the purpose for which it is sold.[148] By offering a good or service, a seller impliedly represents that it is fit for the purpose for which it is sold.[149] As a result, it is deceptive when a good or service cannot be used for its intended purpose without an additional purchase.

The pricing structures described in this section are material where they are likely to affect consumers' choices or conduct regarding the goods or services at issue. Material facts are those that are important to consumers' choices or conduct regarding a product, and certain categories of information are presumptively material.[150] The Commission has previously recognized that price is a material term,[151] and that it is a deceptive practice to misrepresent the price of a product.[152]

Pricing structures that do not clearly and conspicuously disclose the total price are also unfair under Section 5 because they are likely to cause substantial injury, they are not reasonably avoidable by consumers, and the injury is not outweighed by benefits to consumers or competition. Unfair or deceptive fee practices can cause significant consumer harm and reduce competition.[153] When sellers advertise prices that are artificially low because they do not include mandatory fees that are disclosed only later in the purchasing transaction, consumers end up transacting with those sellers under false pretenses. Injury to consumers can occur even when all fees are disclosed up front, but separately from the base price.[154] Businesses that accurately represent the total amount consumers will pay up front are at a competitive disadvantage to those that do not.[155]

Often, these harms disproportionately impact consumers who are already targets of discrimination. The Consumer Federation of America, along with ten other organizations, submitted a comment that compiled examples of how unfair or deceptive fees uniquely harm low-income, Black, Latino, limited English-speaking, and disabled consumers.[156] For example, unfair or deceptive fees represent a

[142] 15 U.S.C. 45(n).

[143] *See* discussion, *supra* Section II.A.1.

[144] This practice would include advertisements where additional charges are not disclosed clearly and conspicuously—for example, they appear only in fine print—and advertisements that partition the total cost into various components without displaying the total price most prominently.

[145] *See* discussion, *supra* Section II.A.1. & nn. 9–10.

[146] Fed. Trade Comm'n, *Enforcement Policy Statement on Deceptively Formatted Advertisements* at 7 (2015), *https://www.ftc.gov/system/files/documents/public_statements/896923/151222deceptiveenforcement.pdf* (hereinafter ''*Policy Statement on Deceptive Ad Formats*'') (describing the FTC's enforcement actions against misleading door openers since at least 1976). *See also, Intuit, Inc.,* Docket No. 9408 (FTC Initial Decision Sept. 6, 2023) (finding that Respondent's advertisements employed a deceptive door opener claiming that consumers can file their taxes for free with TurboTax and that Respondent's later disclosures did not clearly and conspicuously disclose material facts explaining the limitations on the free offer).

[147] *Policy Statement on Deceptive Ad Formats* at 7 & n. 25 (collecting cases before 2015); *FTC* v. *FleetCor Techs., Inc.,* 620 F. Supp. 3d 1268, 1298–99 (N.D. Ga. 2022); *FTC* v. *Elegant Sols., Inc.,* No. SACV 19–1333 JVS (KESx), 2020 WL 4390381, at *9–10 (C.D. Cal. July 6, 2020), aff'd, No. 20–55766, 2022 WL 2072735 (9th Cir. June 9, 2022); *FTC* v. *Am. Fin. Benefits Ctr.,* No. C 18–00806 SBA, 2018 WL 11354861, at *9 (N.D. Cal. Nov. 29, 2018); *FTC* v. *All. Document Preparation,* 296 F. Supp. 3d 1197, 1209 (C.D. Cal. 2017); *FTC* v. *OMICS Grp. Inc.,* 302 F. Supp. 3d 1184, 1190 (D. Nev. 2017).

[148] *Deception Policy Statement,* 103 F.T.C. at 175 n.4, 177; *In re Int'l Harvester Co.,* 104 F.T.C. 949, 1058 & n.35 (1984); *Tomasella* v. *Nestle USA, Inc.,* 962 F.3d 60, 72 & n.11 (1st Cir. 2020).

[149] *Deception Policy Statement,* 103 F.T.C. at 175 n.4, 177; *In re Int'l Harvester Co.,* 104 F.T.C. at 1058 & n.35; *Tomasella,* 962 F.3d at 72, 72 n.11.

[150] *Deception Policy Statement,* 103 F.T.C. at 182.

[151] *Id.* at 182 & 182 n.55 (listing claims or omissions involving cost among those that are presumptively material); *see also FleetCor Techs.,* 620 F. Supp. 3d at 1303–04 (finding that representations about transaction fees and discounts were material).

[152] *Deception Policy Statement,* 103 F.T.C. at 175 (listing ''misleading price claims'' among those claims that the FTC has found to be deceptive); *see, e.g., Resort Car Rental Sys., Inc.* v. *Fed. Trade Comm'n,* 518 F.2d 962, 964 (9th Cir. 1975) (upholding the Commission's order finding that using the name ''Dollar-A-Day'' misrepresented the price of car rentals in violation of Section 5 of the FTC Act).

[153] *See, e.g.,* Mary Sullivan, Fed. Trade Comm'n, *Economic Analysis of Hotel Resort Fees* 4 (2017) *https://www.ftc.gov/system/files/documents/reports/economic-analysis-hotel-resort-fees/p115503_hotel_resort_fees_economic_issues_paper.pdf;* Alexander Rasch et al., *Drip Pricing and its Regulation: Experimental Evidence,* 176 J. Econ. Behav. & Org., 353, 362–63 (2020) (''[E]xperimental evidence suggests that consumers indeed strongly and systematically underestimate the total price under drip pricing and make mistakes when searching.''); Shelle Santana et al., *Consumer Reactions to Drip Pricing,* 39 Mktg. Sci. 1, 188 (2020), *https://doi.org/10.1287/mksc.2019.1207* (''Across six studies, we find that when optional surcharges are dripped (versus revealed up front) consumers are more likely to initially select a lower base priced option which, after surcharges are included, is often more expensive than the alternative.''); Howard A. Shelanski et al., *Economics at the FTC: Drug and PBM Mergers and Drip Pricing,* 41 Rev. Indus. Org., 314–16 (2012). *https://doi.org/10.1007/s11151-012-9360-x;* Tom Blake et al., *Price Salience and Product Choice,* 40 Marketing Science 4, 619–36 (2021), *https://doi.org/10.1287/mksc2020.1261;* Steffen Huck et al., *The Impact of Price Frames on Consumer Decision Making: Experimental Evidence,* at 4 (2015), *https://www.ucl.ac.uk/~uctpbwa/papers/price-framing.pdf;* Ellison & Ellison, *Search and Obfuscation in a Technologically Changing Retail Environment: Some Thoughts on Implications and Policy,* 6 NBER Innovation Pol'y & Econ. 18, 2–6 (2018); Busse, M., & Silva-Risso, J., ''*One Discriminatory Rent*'' or ''*Double Jeopardy*'': *Multi-component Negotiation for New Car Purchases,* 100 Am. Econ. Rev. 2, 470–74 (2010).

[154] *E.g.,* Sullivan, *supra* n. 153, at 22, 24–25 (describing empirical studies on partitioned pricing); Vicki G. Morowitz et al., *Divide and Prosper: Consumers' Reactions to Partitioned Prices,* 35 J. Mktg. Rsch., 455 (1998) (on average, subjects shown partitioned pricing underestimated the total price relative to subjects who received the total price up front); Bertini, M., & Wathieu, L., *Attention Arousal through Price Partitioning,* 27 Mktg. Sci. 2, 236, 239–41 (2008) (showing that when prices are partitioned, subjects give outsized attention to attributes associated with mandatory surcharges rather than the primary product).

[155] *See, e.g.,* FTC–2022–0069–6095 (describing harm to competition and honest businesses through price obfuscation).

[156] FTC–2022–0069–6095 at 7–11.

disproportionately high cost for low-income consumers and can have cascading effects that destabilize their budgets and push them to rely on predatory financial products.[157] Black and Latino consumers often pay a disproportionate amount of junk fees in banking,[158] have been targeted with junk fees in auto-lending, and because of inequities in generational wealth are more likely to be harmed more severely by foreclosure.[159] Fees that are not clearly and conspicuously disclosed, such as those that are obscured in fine print, while affecting all consumers, can be especially difficult to spot for consumers whose English proficiency is limited.[160] Finally, the comment provided examples of disabled consumers being charged extra fees to accommodate the consumers' disabilities while providing the agreed upon services.[161]

Injury to consumers comes in the form of higher prices and search costs. Several studies have shown that consumers spend more money on the same goods when they are not shown the total price up front.[162] For example, a study by the live-event ticket seller StubHub found that consumers spent more money—they purchased more tickets and upgraded to more expensive seats—when the total price was not displayed at the beginning of the transaction.[163] One laboratory experiment examined, among other things, how consumers reacted when the total price was divided into three parts, with each part being revealed at different points in the transaction.[164] This experiment found that a measurement of consumer savings was reduced by 22%.[165] Further, the monetary cost to consumers is significant. For example, in 2018 resort fees generated an estimated $2.9 billion in revenue for the hotel industry,[166] and in the most recent fiscal year, ''service'' fees for Live Nation Entertainment, the largest business in the live-event ticket market, accounted for over $2.2 billion in revenue.[167] Many consumer comments in response to the ANPR stated they paid more as a result of businesses failing to disclose the total price up front.[168]

In addition, consumers who wish to compare prices incur additional search costs to make direct comparisons of products when the full price is not disclosed up front.[169] For example, in an online transaction, consumers cannot simply view the first price displayed on each website, but instead need to navigate to subsequent pages or even enter all their payment information and reach the checkout page for each website to determine the total price.[170] Such search costs that result from unfair or deceptive practices are legally cognizable injuries under the FTC Act.[171] Consumer comments also describe harms in the form of search costs.[172]

Where mandatory fees are disclosed at the same time as but separately from the base price, consumers are nevertheless harmed. The practice of dividing the price into multiple components without disclosing the total, generally referred to as partitioned pricing, distorts consumer choice.[173] Consumers confronted with partitioned pricing, on average, underestimate the total cost of the good or service, likely because they use mental shortcuts to estimate the price that do not fully account for each component.[174] Partitioned pricing also leads consumers to pay disproportionate attention to secondary features of a product associated with ancillary fees, which impedes consumers' ability to accurately compare products.[175]

Consumers cannot reasonably avoid these injuries. First, as explained in this section, the search costs necessary to avoid the harm of paying higher prices are themselves a harm to consumers. As the Institute for Policy Integrity explained in its petition for a rulemaking on these practices, also

[157] *Id.* at 7, 9.

[158] Although the Commission generally does not have jurisdiction over banks and Federal credit unions for purposes of Section 5(a), 15 U.S.C. 45(a), other financial services entities are covered under its authority. *See generally, e.g., FTC* v. *FleetCor Techs., Inc.,* 620 F. Supp. 3d 1268 (N.D. Ga. 2022); Stipulated Order, *FTC* v. *Beam Financial Inc.,* No. 3:20–cv–08119–AGT (N.D. Ca. Mar. 30, 2021); Compl., *FTC* v. *LendingClub Corp.,* No. 3:18–cv–02454 (N.D. Cal. filed Apr. 25, 2018); Stipulated Order, *FTC* v. *Avant, LLC, No.* 19–cv–2517 (N.D. Ill. May 19, 2019); Stipulated Order, *FTC* v. *Western Union Co.,* No. 1:17–cv–0110 (M.D. Pa. Jan. 20, 2017).

[159] FTC–2022–0069–6095 at 7–8.

[160] *Id.* at 9.

[161] *Id.* at 10–11 (describing wait time fees for disabled passengers who needed more time to get to rideshare vehicles, and paper statement fee for a consumer with cognitive disabilities).

[162] Rasch, *supra* n. 153, at 6–8, 20–22, 30–31; Santana, *supra* n. 153, at 197; Blake, *supra* n. 153, at 16; Huck & Wallace, *supra* n. 153, at 2; Busse & Risso, *supra* n. 153, at 474.

[163] Blake, *supra* n. 153, at 16.

[164] Huck & Wallace, *supra* n. 153, at 2.

[165] *Id.* Specifically, the experiment examined ''consumer surplus,'' which is the difference between the highest price a consumer is willing to pay and the price they ultimately pay.

[166] Beth Braverman, *Avoid Sneaky Hotel Fees on Your Next Vacation,* Consumer Reports (May 29, 2019), *https://www.consumerreports.org/fees-billing/how-to-avoid-sneaky-hotel-fees/.*

[167] LYC 10K at 37, 60 (showing $2,238,618,000 in Ticketing Operations revenue and explaining that such revenue ''primarily consists of service fees . . . .''). The scale of such fees is not new. In 2015, resort fees reportedly accounted for $2.04 billion in revenue while ticket service fees accounted for more than $1.6 billion. Nat'l Econ. Council, *The Competition Initiative and Hidden Fees* (Dec. 2016), *https://obamawhitehouse.archives.gov/sites/whitehouse.gov/files/documents/hiddenfeesreport_12282016.pdf.*

[168] FTC–2022–0069–3260 (''It's just extremely frustrating and I always end up spending more than I would like because of these practices''); FTC–2022–0069–6168 (''By the time I've done my research and chosen a product or service and I'm checking out, if a fee comes up, it's often too late to make a different choice.''); FTC–2022–0069–3631(''Fans have no choice but to pay these fees if they want to see their favorite performers and acts.''); FTC–2022–0069–4056 (''Hidden additional fees cost me over four HUNDRED dollars for just a three-night stay, about 38% of the total cost.'')

[169] Sullivan, *supra* n. 153, at 4; Fed. Trade Comm'n, *''That's the Ticket'' Workshop: Staff Perspective,* 4 (May 2020), *https://www.ftc.gov/reports/thats-ticket-workshop-staff-perspective; see also* Hong, H. & Shum, M. *Using Price Distributions to Estimate Search Costs,* RAND J. Econ. 37:2 (2006) (describing methods of estimating search costs); Huck & Wallace, *supra* n. 153, at 13 (applying search costs in economic models); *and discussion, infra,* Section VII.

[170] *E.g.,* FTC–2022–0069–2005 (''The number of times I have wanted to go to a concert or book an Airbnb only to get to the last page before entering in my payment details, only to find out that the expected price is suddenly up to 50% higher due to various fees tacked on at the last second is absolutely ridiculous.''); FTC–2022–0069–6099 at 424 (including a complaint from a consumer who went through various ''fill-in forms, adding my name, address, credit card number,'' and chose a printed ticket for delivery, but was charged an $8.95 ''delivery fee'' and a $231.88 ''Service Fee'' on the last page of the transaction); FTC–2022–0069–1331 (''Turbo tax has a lot of hidden fees that make you spend hours of time to fill out information and then if you don't pay you lose hours of input data.''); FTC–2022–0069–6095 at 20 (''Consumers are required to fill out forms, provide personal information, click through unrelated and difficult to understand links, and sometimes spend several hours at a dealership or loan store to obtain sufficient information to enable comparison shopping.'').

[171] *See, e.g., FTC* v. *Amazon.com, Inc.,* No. C14–1038–JCC, 2016 U.S. Dist. LEXIS 55569, at *17 (W.D. Wash. Apr. 26, 2016) (finding consumer injury included ''time spent pursuing those refunds''); *In re LCA-Vision,* No. C–4789 (Decision & Order entered Mar. 13, 2023) (settling allegations that deceptive practices caused consumers to ''waste[ ] 90 minutes to two hours of their time,'' Compl. at 17), *https://www.ftc.gov/system/files/ftc_gov/pdf/1923157-lca-vision-consent-package.pdf.*

[172] *E.g.,* FTC–2022–0069–0032 (''In some markets, this makes it nearly impossible to find the actual hotels within my price range since I have to go through the process of attempting to book each hotel to find the actual, final cost. What should be a 5 minutes search can turn into hours or days.''); FTC–2022–0069–6095 (describing, on behalf of constituent consumers, the difficulty of searching for prices and incorporating fees into price comparisons); FTC–2022–0069–6082 at 12 (describing the difficulty of comparing price for electronic messaging services in prisons); FTC–2022–0069–4424 (''The consumer is left vulnerable and with two options. Proceed with the transaction and pay a higher cost than originally anticipated. Or decline the transaction and have wasted time and effort.''); FTC–2022–0069–4773 (''It is impossible to compare prices online for so many things now.'').

[173] Sullivan, *supra* n. 153, at 21–25;

[174] *Id.* at 22–24; Morwitz, *supra* n. 154 at 455.

[175] Bertini & Wathieu, *supra* n. 154 at 239–41.

called drip pricing, ''either the consumer must spend additional time searching for full pricing information to engage in comparison shopping, or must make an uninformed decision.'' [176] Moreover, studies suggest that cognitive biases may exist that prevent consumers from avoiding injury. Several psychological theories explain why consumers make errors when the total price is not revealed up front: (1) under the anchoring theory, consumers who first learn of a lower price do not properly adjust their calculations when additional fees are added, thereby underestimating the total cost; [177] (2) under the endowment theory, consumers attach value to things they perceive to be theirs and when consumers begin the purchase process their perception shifts so that stopping the transaction feels like a loss; [178] and (3) under the sunk cost fallacy, consumers who have already invested in an endeavor, such as by taking time to make selections on a website or travel to a store, continue that endeavor even if it would benefit them more to begin again elsewhere.[179] In addition, the market cannot correct for these injuries because the practice of displaying incomplete initial prices is so prevalent that honest businesses cannot compete.[180] For example, after StubHub unilaterally adopted an all-in pricing model in 2014, it soon reverted back to its original model after it lost significant market share when customers incorrectly perceived StubHub's prices to be higher.[181]

Finally, consumer injury is not outweighed by benefits to consumers or competition. The practice of advertising prices that are not the full price does not benefit consumers or competition. Consumers do not receive any benefit from the misleading price presentation.[182] Even where the undisclosed fees are used to pay for something of value to consumers, omitting that fee from the initial price does not benefit consumers. Nor does this practice benefit competition, as it acts as a hindrance to businesses that opt to disclose the true price, as illustrated by real-world examples.[183] This price obfuscation, in turn, undermines the ability of businesses to compete on price and inhibits the market from driving down prices overall.

B. Misrepresenting the Nature and Purpose of Charges

The comment record supports a finding that practices that misrepresent the nature and purpose of fees are prevalent. Specifically, commenters identified pricing structures that misrepresented information about the nature and purpose of fees and charges.[184] These complaints included instances in which consumers were misled about the identity of the good or service for which a fee was charged, such as a ''cleaning fee'' for a vacation rental where the consumer was also required to conduct extensive cleaning,[185] or a ''convenience fee'' to purchase a ticket when the purchasing method is not more convenient to the consumer than any alternative.[186] They also included instances in which consumers were misled about other material aspects of the fee or charge. For example, consumers complained that businesses led them to believe a charge was a mandatory tax on consumers imposed by the government when it was actually a charge the business chose to impose to offset increased costs to the business.[187] Consumers also commented that they were misled about the amount of fees, particularly when a service was advertised as ''free'' but nevertheless incurred a fee.[188] Consumers also complained that they believed certain charges for goods or services were refundable and discovered only after the purchase that they were either not refundable at all or that a portion of the fees was not refundable.[189]

Charges that misrepresent their nature and purpose are deceptive because they mislead reasonable consumers. False claims and those that lack a reasonable basis are inherently likely to mislead consumers.[190] Further, the nature and purpose of charges are core characteristics that affect the value to consumers of the goods or services being offered. A representation is material if it conveys information '' 'that is important to consumers and, hence, likely to affect their choice of, or conduct regarding, a product.' '' [191] Whether a consumer is required to pay a charge, and what goods or services they will receive in exchange for the charge, necessarily affect a consumer's choice whether to pay a charge.[192] Other characteristics included in the nature and purpose of a charge, such as the amount of the charge and whether it is refundable, are also material.[193]

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[176] Inst. for Policy Integrity, *Pet. for Rulemaking Concerning Drip Pricing* at 17 (2021), *https://www.regulations.gov/docket/FTC-2021-0074/document.*

[177] *Id.* at 18.

[178] Huck & Wallace, *supra* n. 153, at 32.

[179] David A. Friedman, *Regulating Drip Pricing,* 31 Stan. L. & Pol'y Rev. 51, 55 n.13 (2020).

[180] FTC–2022–0069–6088 at 13; FTC–2022–0069–6095 at 3, 6; FTC–2022–0069–6082 at 12.

[181] Fed. Trade Comm'n, ''*That's the Ticket*'' *Workshop: Staff Perspective, supra* n. 163, at 4 & n.15.

[182] Inst. for Policy Integrity, *Pet. for Rulemaking Concerning Drip Pricing* at 20 (2021), *https://policyintegrity.org/documents/Petition_for_Rulemaking_Concerning_Drip_Pricing.pdf.*

[183] Friedman, *supra* n. 179, at 65–66; U.K. Off. Fair Trading, Advertising of Prices at 25 (2010), *https://webarchive.nationalarchives.gov.uk/20140402173016/http://oft.gov.uk/shared_oft/market-studies/AoP/OFT1291.pdf.*

[184] More than 250 comments identified misrepresentations across many industries about the nature and purpose of fees.

[185] *E.g.,* FTC–2022–0069–2389; FTC–2022–0069–0874; FTC–2022–0069–1571; FTC–2022–0069–2359; FTC–2022–0069–5078; *see also* FTC–2022–0069–5665 (describing a daily cleaning fee for cleaning services that were not provided until the end of the stay).

[186] *E.g.,* FTC–2022–0069–6166; *see also* FTC–2022–0069–0634 (describing misleading fees for ''maintenance'' that do not correspond to the actual maintenance of a product); FTC–2022–0069–0700 (describing a ''service'' fee that a business claimed covered water and other services but the consumer was not provided water); FTC–2022–0069–0729 (describing ''amenity'' fees for amenities that were not available because of COVID–19); FTC–2022–0069–5991 (describing resort fees to cover services that were already provided through a consumer loyalty plan); FTC–2022–0069–1746 (describing an apartment rental fee for valet trash services that were not usually provided).

[187] FTC–2022–0069–6095 at 14; FTC–2022–0069–0138; FTC–2022–0069–0765; FTC–2022–0069–1600; FTC–2022–0069–2387; FTC–2022–0069–0637; FTC–2022–0069–2338; FTC–2022–0069–3036.

[188] FTC–2022–0069–1676 (''Turbo tax. Waiting until I've done all of my paperwork to tell me that I need to upgrade my package to file.''); FTC–2022–0069–2986 (''the cruise line included room service at no charge,'' but ''they added a $9,95 [sic] plus 18% gratuity charge to all room service services''); FTC–2022–0069–0688 (''During on-line Christmas shopping, one company offered 'Free Shipping' as a promotion. At checkout, even though there was a $0 charge for 'Shipping', I was charged $2.99 for 'Shipping Service Fees'. How is this considered FREE shipping?'').

[189] *E.g.,* FTC–2022–0069–0556; FTC–2022–0069–1545; FTC–2022–0069–2096; FTC–2022–0069–2190.

[190] *Deception Policy Statement,* 103 F.T.C. at 175 n.5; *FTC* v. *Direct Mktg. Concepts, Inc.,* No. 04–11136–GAO, 2004 U.S. Dist. Lexis 11628, *13 (D. Mass. June 23, 2004) (citing *In re Thompson Med. Co.,* 104 F.T.C. 648, 788, 818–19 (1984)).

[191] *FTC* v. *Cyberspace.com,* 453 F.3d 1196, 1201 (9th Cir. 2006) (quoting *Cliffdale Assocs.,* Inc., 103 F.T.C. 110, 165 (1984)).

[192] *See, e.g., FleetCor Techs.,* 620 F. Supp. at 1310 (finding it was deceptive to charge fees with different names that were functionally transaction fees after stating that consumers would not be charged transaction fees).

[193] *See FTC* v. *Windward Mktg., Ltd.,* No. Civ. A. 1:96–CV–615F, 1997 WL 33642380, at *10 (N.D. Ga. Sept. 30, 1997) (''[A]ny representations concerning the price of a product or service are presumptively material.''); *see, e.g., FTC* v. *MOBE Ltd.,* No. 6:18–cv–862–Orl–37DCI, 2020 WL 3250220, at *4 (M.D. Fla. Mar. 26, 2020), *adopted by,* 2020 WL 1847354 (M.D. Fla. Apr. 13, 2020) (finding that representations about the availability of refunds and money-back guarantees were presumptively material); *FTC* v. *Ewing,* No. 2:14–cv–00683–RFB–VCF, 2017 WL 4797516, at *6 (D. Nev. Oct. 24, 2017) (finding that ''100% no strings-attached refund policy'' was presumptively material); *FTC* v. *Lead Express, Inc.*, No. 2:20–cv–00840–JAD–NJK, 2020 WL 2615685, at *7 (D. Nev. May 19, 2020) (prohibiting misrepresentations about material

Moreover, it is unfair for businesses to misrepresent the nature and purpose of charges. Charging consumers under false pretenses causes substantial injury, including where the injury is a ''small harm to a large number of people'' or ''where it raises a significant risk of concrete harm.'' [194] Where businesses obscure information about the nature and purpose of fees or provide false information to consumers, injury from the misrepresentations is not reasonably avoidable.[195] Such practices have no countervailing benefits to consumers and competition—they simply make it more difficult for consumers to comparison shop and for truthful businesses to compete on price.

To prevent the misrepresentations described in this section, it is necessary for businesses to clearly and conspicuously disclose the nature and purpose of any amount a consumer may pay that is excluded from the total price. Where charges are excluded from the total price, disclosures of the nature and purpose of such charges are necessary to determine whether such fees are truly optional and properly excluded from the total price, and for the consumer to decide whether to accept the optional charge.

The FTC has brought many cases concerning misrepresentations of the total price of goods or services and the nature and purpose of charges, which are described in greater detail in Section III.C.

C. Law Enforcement Actions and Other Responses

The Commission's prior work, and complementary actions by State and private actors, further support a finding that the unfair or deceptive practices identified in Sections III.A. and III.B. are prevalent. To address these unfair or deceptive practices, the Commission has brought enforcement actions and engaged in other efforts to address unfair or deceptive fee practices. The Commission has brought numerous cases alleging businesses have misrepresented the total costs of goods and services because their prices do not include all mandatory fees.[196] Among the challenged fees were undisclosed fees that increased the total cost to consumers [197] and fees that diminished the value of the good or service the consumer received.[198] For example, in *United States* v. *Funeral & Cremation Group of North America, LLC,* the Department of Justice brought suit on behalf of the Commission alleging the defendants misrepresented the price of funeral services by listing low prices on websites that were later inflated with various fees.[199] The case resulted in a settlement requiring, among other things, that the defendants provide accurate price lists during or immediately after their first interaction with consumers and pay a civil penalty.[200] Similarly, in *FTC* v. *FleetCor Technologies, Inc.,* the FTC alleged the defendant misrepresented the cost of its fuel cards when it ''charged customers at least hundreds of millions of dollars in unexpected fees.'' [201] In *FTC* v. *LendingClub Corp.,* the FTC charged that the loan company offered loan applicants specific loan amounts with ''no hidden fees,'' but actually deducted hundreds or even thousands of dollars of hidden upfront fees from consumers' loan disbursements.[202] And in *FTC* v. *Millennium Telecard, Inc.,* the Commission alleged the defendants advertised prepaid calling cards, including a specified dollar value for a certain number of minutes, but failed to disclose numerous fees that reduced the number of available minutes.[203]

The Commission has similarly brought numerous cases alleging businesses have mispresented the nature and purpose of fees.[204] For

terms, including fees and payment amounts); *FTC* v. *BlueHippo Funding, LLC,* 762 F.3d 238, 246 (2d Cir. 2014) (stating that refund information would have influenced consumer purchasing decisions and remanding to the district court to determine whether to apply a presumption of reliance in calculating damages); *FTC* v. *Lucaslaw Ctr. Inc.*, No. SACV 09–0770 DOC (ANx), 2010 WL 11506885, at *6 (C.D. Cal. June 3, 2010) (finding that the representations that a large up-front fee was refundable if a loan modification was not approved were material), *aff'd sub nom. FTC.* v. *Lucas,* No. 10–56985, 483 F. App'x 378 (9th Cir. 2012).

[194] *Am. Fin. Servs. Ass'n* v. *FTC,* 767 F.2d 957, 972 (D.C. Cir. 1985); *Orkin Exterminating Co.* v. *FTC,* 849 F.2d 1354, 1365 (11th Cir. 1988).

[195] *E.g., FleetCor Techs.,* 620 F. Supp. 3d at 1334 (N.D. Ga. 2022) (finding that fees that were not listed, ''obscured by vague language and tiny print'' in the terms and conditions, or described vaguely in billing statements, were not unavoidable).

[196] Compl. ¶¶ 42–44, 50, *United States* v. *Funeral Cremation Grp. of N. Am., LLC (''Legacy Cremation Servs.''),* No. 0:22–cv–60779 (S.D. Fla. filed Apr. 22, 2022) (alleging defendants advertised artificially low prices for cremation services which ultimately included undisclosed additional charges and, in some cases where consumers contested these charges, defendants refused to return remains); Compl. ¶ 9, *FTC* v. *Liberty Chevrolet, Inc. (''Bronx Honda''),* No. 1:20–cv–03945 (S.D.N.Y. filed May 21, 2020) (alleging defendants advertised low sales prices but later told consumers they were required to pay additional charges including certification charges); Compl. ¶ 13, *FTC* v. *NetSpend Corp.,* No. 1:16–cv–04203 (N.D. Ga. filed Apr. 11, 2017) (alleging in part that defendant charged maintenance and usage fees to consumers who were unable to use all, or even a portion of, the funds of their prepaid debit cards); *see also* Compl. ¶¶ 24–25, 40–42, *FTC* v. *AT&T Mobility LLC,* No. 3:14–cv–04785 (N.D. Cal. filed Oct. 28, 2014) (alleging defendant did not adequately disclose the limitations of defendant's data plan offerings and subsequently charged high cancellation fees for consumers who chose to end their contracts); Compl. ¶¶ 1, 26, 39–40, *FTC* v. *Millennium Telecard, Inc.,* No. 2:11–cv–02479 (D.N.J. filed May 2, 2011) (alleging defendants deceptively marketed prepaid credit calling cards by failing to adequately disclose fees that substantially limited the number of minutes consumers had purchased); Compl. ¶ 15, *FTC* v. *CompuCredit Corp.,* No. 1:08–cv–01976 (N.D. Ga. filed June 10, 2008) (alleging in part that defendants misrepresented the credit limits on various credit cards and failed to disclose fees charged upfront); Compl. ¶¶ 15–17, *FTC* v. *Nationwide Connections, Inc.,* No. 06–cv–80180 (S.D. Fla. filed Feb. 27, 2006) (alleging in part that defendants crammed unauthorized charges for long distance service onto consumers' phone bills).

[197] *E.g.,* Compl. ¶¶ 42–44, 50, *Funeral & Cremation Grp. of N. Am.,* No. 0:22–cv–60779, *supra* n. 196; Compl. ¶¶ 39–46, *FTC* v. *Vonage Holdings Corp.,* No. 3:22–cv–6435 (D.N.J. filed Nov. 3, 2022).

[198] *E.g.,* Compl. ¶ 13, *NetSpend Corp.,* No. 1:16–cv–04203, *supra* n. 196 (N.D. Ga. filed Apr. 11, 2017); Compl. ¶¶ 1, 26, 39–40, *Millennium Telecard,* No. 2:11–cv–02479, *supra* n. 196.

[199] Compl. ¶¶ 42–57, *Funeral & Cremation Grp. of N. Am., LLC,* No. 0:22–cv–60779, *supra* n. 196.

[200] Stipulated Order at 7–10, *U.S.* v. *Funeral & Cremation Grp. of N. Am., LLC,* No. 0:22–cv–60779 (S.D. Fla. Apr. 6, 2023).

[201] Compl. ¶¶ 10, 29–31, 36, 96–98, 102–04, *FTC* v. *FleetCor Techs., Inc.,* No. 1:19–cv–05727, 2019 WL 13081514 (N.D. Ga. filed Dec. 20, 2019). The Court granted summary judgment on the FTC's claims, among others, that FleetCor falsely represented that customers would not pay transaction fees. *FleetCor Techs.,* 620 F. Supp. 3d at 1307–10.

[202] Compl. ¶¶ 9, 10, 12–16, 22–25, *FTC* v. *LendingClub Corp.,* No. 3:18–cv–02454 (N.D. Cal. filed Apr. 25, 2018).

[203] Compl. ¶¶ 1, 26, 39–40, *Millennium Telecard,* No. 2:11–cv–02479, *supra* n. 196.

[204] Compl. ¶¶ 39–46, *Vonage Holdings,* No. 3:22–cv–6435, *supra* n. 197 (alleging in part that defendant charged undisclosed large cancellation fees); Compl. ¶¶ 61–63, *FTC* v. *Benefytt Techs., Inc.,* No. 8:22–cv–1794 (M.D. Fla. filed Aug. 8, 2022) (alleging in part that defendants bundled and charged fees for unwanted products with sham health insurance plans); Compl. ¶¶ 17–20, *FTC* v. *Passport Auto Grp., Inc.,* No. 8:22–cv–02670 (D. Md. filed Oct. 18, 2022) (alleging in part that defendants advertised vehicle prices that did not include redundant fees ranging from hundreds to thousands of dollars for inspection, reconditioning, preparation, and certification); Compl. ¶¶ 3, 33, 41, *FTC* v. *N. Am. Auto. Serv., Inc. (''Napleton Auto''),* No. 1:22–cv–01690 (E.D. Ill. filed Mar. 31, 2022) (alleging defendants charged consumers for additional products and services without their consent and misrepresented the fees as mandatory, resulting in artificially low advertised prices); Final Compl. ¶¶ 50–51, *In re Amazon.com, Inc. (''Amazon Flex''),* No C–4746 (F.T.C. filed June 10, 2021) (alleging respondents falsely represented that 100% of tips would go to the driver in addition to the pay respondents offered drivers); Compl. ¶¶ 37–39, *FTC* v. *Lead Express, Inc.,* No. 2:20–cv–00840 (D. Nev. filed May 11, 2020) (alleging in part that defendants did not clearly and conspicuously disclose material information related to the total amount of payments related to loans and also withdrew significantly more than the stated total cost of the loan from consumers' accounts); Compl. ¶¶ 9–10, *FleetCor Tech.,* No. 1:19–cv–05727, 2019 WL 13081514 (alleging defendants charged consumers arbitrary and unexpected fees related to pre-paid fuel cards without consumers' consent); Compl. ¶¶ 4, 30–32, 36–37, *FTC* v. *BCO Consulting Servs., Inc.,* No. 8:23–cv–00699 (C.D. Cal. filed Apr. 24, 2023) (alleging defendants enticed consumers with false promises to alleviate student loan debt despite not applying any payments to the student

Continued

example, in *The Matter of Amazon.com,* the Commission alleged Amazon made unlawful misrepresentations in violation of Section 5 of the FTC Act when it claimed that it would give to Amazon Flex drivers, in addition to their regular pay, 100% of tips consumers elected to leave.[205] Instead, the FTC alleged, Amazon used the tips to subsidize its own pay to drivers.[206] The case, which was brought under the FTC's Section 19 administrative procedure, resulted in a settlement through which the FTC returned nearly $60 million to Amazon Flex drivers.[207]

The Commission similarly addressed misrepresentations about what charges were for in *FTC* v. *Benefytt Technologies Inc.,* alleging in part that the defendants misled consumers about whether ancillary products were included in the price of an insurance plan, using dark patterns in the enrollment process and a single bill to obscure the boundaries of each separate product.[208] The parties agreed to a settlement, providing $100 million in redress to consumers and prohibiting defendants from misrepresenting the nature of their products, among other terms.[209]

The Commission also addressed misrepresentations about the nature and purpose of fees, including their amount and whether they were mandatory, in *FTC* v. *Stewart Finance Company Holdings.* The Commission alleged in part that defendants misrepresented optional ancillary products as mandatory and misrepresented the cost of a direct deposit option as free when it incurred a monthly charge.[210] The case, which was resolved before the Supreme Court's decision in *AMG Capital Management* v. *FTC* limited avenues for the Commission to obtain monetary relief,[211] resulted in a settlement that provided monetary redress to consumers and, among other terms, prohibited the defendants from misrepresenting the cost, benefit, or optional nature of any ancillary loan products and from misrepresenting direct deposit as a ''free'' service, or misrepresenting its costs and terms.[212] Similarly, in *FTC* v. *Websource Media, LLC,* the Commission addressed misrepresentations about the amount of fees when it alleged defendants offered a free trial for a website design but added fees for the website to consumers' telephone bills.[213] Settlements reached in 2007 and 2009 provided monetary redress to consumers and prohibited the defendants from making various misrepresentations.[214] In *FTC* v. *U.S. Mortgage Funding, Inc.,* the Commission alleged the defendants violated Section 5 of the FTC Act when they misrepresented that large upfront fees charged to homeowners to negotiate loan modifications would be refunded if a modification was not obtained.[215] The case resulted in default judgments against two defendants and settlements with the remaining four defendants that included monetary judgments and bans on providing mortgage relief services, among other things.[216]

To complement its law enforcement efforts, the FTC has engaged with the public through a variety of measures over more than a decade to address unfair or deceptive practices related to fees. For example, in 2012, the FTC's Bureau of Economics held a conference designed to ''examine the theoretical motivation for drip pricing and its impact on consumers, empirical studies, and policy issues pertaining to drip pricing.'' [217] The conference brought together a variety of experts including economists and policy experts to give an overview of drip pricing and look at its impact on the market. Following the workshop, Commission staff sent warning letters to hotels and online travel agents, stating that they were not adequately disclosing resort fees or including those fees in the total price.[218] Likewise, in 2017, the Commission published a report that reviewed the existing literature on shrouded pricing and examined the costs and benefits of disclosing resort fees.[219] In 2019, the Commission hosted a workshop that examined pricing and fee issues in the

loan balances and collecting illegal advance fees without providing any services); Compl. ¶¶ 31–36, *FTC* v. *OMICS Grp. Inc.,* No. 2:16–cv–02022 (D. Nev. filed Aug. 25, 2016) (alleging in part defendants misrepresented the publishing process of academic papers and only disclosed large publishing fees after notifying consumers that their papers had been approved for publication); Compl. ¶¶ 12, 23–25, *FTC* v. *LendingClub Corp.,* No. 3:18–cv–02454 (N.D. Cal. filed Apr. 25, 2018) (alleging defendant charged consumers an upfront fee based on a percentage of the loan requested that was not clearly and conspicuously disclosed; this hidden fee caused loans received to be substantially smaller than advertised); Compl. ¶ 37, *FTC* v. *T-Mobile USA, Inc.,* No. 2:14–cv–00967 (W.D. Wash. filed July 1, 2014) (alleging defendant added unauthorized third-party charges to the telephone bills of consumers); Am. Compl. ¶¶ 21–22, *FTC* v. *Websource Media, LLC,* No. 4:06–cv–01980 (S.D. Tex. filed June 21, 2006) (alleging defendants placed charges on consumer telephone bills despite representations that there would be no charges or obligations); *FTC* v. *Mercury Mktg. of Del., Inc.,* No. 00–cv–3281, 2004 WL 2677177, *1 (E.D. Pa. Nov. 22, 2004) (finding defendants billed consumers without their consent after misleading consumers about introductory internet packages); Compl. ¶¶ 25–27, *FTC* v. *Stewart Fin. Co.,* No. 1:03–cv–02648 (N.D. Ga. filed Sept. 4, 2003) (alleging in part that defendants package undisclosed add-on products with consumer loans and in some cases describe those add-on products as mandatory); Compl. ¶¶ 19–21, 24, *FTC* v. *Hold Billing Serv., Ltd.,* No. SA–98–CA–0629–FB (W.D. Tex. filed July 16, 1998) (alleging defendants had previously added third-party charges to consumers' phone bills without permission by using sweepstakes entry forms as contracts to authorize charges); Compl. ¶¶ 18, 33, 56–58, *FTC* v. *Lake,* No. 8:15–cv–00585–CJC–JPR (C.D. Cal. filed Apr. 14, 2015) (alleging defendants misrepresented that trial loan payments or reinstatement fee payments would be held in escrow and refunded to the consumer if the loan modification was not approved); *FTC.* v. *Hope for Car Owners, LLC,* No. 2:12–CV–778–GEB–EFB, 2013 WL 322895, at *3–4 (E.D. Cal. Jan. 24, 2013) (finding that the FTC sufficiently stated a claim for misrepresentation of the refundability of vehicle loan modification fees and entering default judgment); Am. Compl. ¶¶ 38–39, 58–60, *FTC* v. *U.S. Mortg. Funding, Inc.,* No. 9:11–cv–80155–JIC (S.D. Fla. filed July 26, 2011) (alleging defendants misrepresented that an upfront loan modification fee was refundable); *FTC* v. *Nat'l Bus. Consultants, Inc.,* 781 F. Supp. 1136, 1143 (E.D. La. 1991) (''The defendants' misrepresentations regarding the ease with which the 'performance deposit' could be refunded composed a large part of the various and sundry misrepresentations.'').

[205] Final Compl. ¶¶ 7–8, 12–20, 26–34, 50–52, *Amazon Flex,* No. C–4746, *supra* n. 204.

[206] *Id.* at ¶¶ 26–34.

[207] Press Release, Fed. Trade Comm'n, *FTC Returns Nearly $60 Million to Drivers Whose Tips Were Illegally Withheld by Amazon* (Nov. 2, 2021), *https://www.ftc.gov/news-events/news/press-releases/2021/11/ftc-returns-nearly-60-million-drivers-whose-tips-were-illegally-withheld-amazon.*

[208] Compl. ¶¶ 20–24, 60–70, Benefytt Techs., No. 8:22–cv–1794, *supra* n. 204.

[209] *E.g.,* Stipulated Order against corporate defendants at 8–9, 26, 27, *Benefytt Techs.,* No. 8:22–cv–1794 (M.D. Fla. Aug. 11, 2022).

[210] Compl. ¶¶ 25–27, 54–56, *Stewart Fin. Co.,* No. 1:03–cv–02648, *supra* n. 204.

[211] *AMG Cap. Mgmt., LLC* v. *FTC,* 141 S. Ct. 1341, 1352 (2021)

[212] Stipulated Final J. against defendants and relief defendant 12–16, *Stewart Fin. Co.,* No. 1:03–cv–02648 (N.D. Ga. Oct. 28, 2003).

[213] Am. Compl. ¶¶ 20–21, *Websource Media,* No. 4:06–cv–01980, *supra* n. 204.

[214] *E.g.,* Stipulated Final J. against Websource Media, et al. 7–12, *Websource Media,* No. 4:06–cv–01980 (S.D. Tex. July 17, 2007); Stipulated Final J. against Steven L. Kennedy 6–9, *Websource Media,* No. 4:06–cv–01980 (S.D. Tex. July 29, 2009).

[215] Am. Compl. ¶¶ 38–39, 58–60, *U.S. Mortg. Funding,* No. 9:11–cv–80155–JIC, *supra* n. 204.

[216] Press Release, Fed. Trade Comm'n, *FTC Action Leads to Ban on Alleged Mortgage Relief Scammers Who Harmed Thousands of Consumers* (Feb. 14, 2012), *https://www.ftc.gov/news-events/news/press-releases/2012/02/ftc-action-leads-ban-alleged-mortgage-relief-scammers-who-harmed-thousands-consumers.*

[217] Fed. Trade Comm'n, *The Economics of Drip Pricing* (May 21, 2012), *https://www.ftc.gov/news-events/events/2012/05/economics-drip-pricing.*

[218] Press Release, Fed. Trade Comm'n, *FTC Warns Hotel Operators that Price Quotes that Exclude ''Resort Fees'' and Other Mandatory Surcharges May Be Deceptive* (Nov. 28, 2012), *https://www.ftc.gov/news-events/news/press-releases/2012/11/ftc-warns-hotel-operators-price-quotes-exclude-resort-fees-other-mandatory-surcharges-may-be.*

[219] Sullivan, *supra* n. 153. As used in this NPRM, the term shrouded pricing includes practices related to both drip pricing and partitioned pricing, which the Commission has previously defined as follows: ''Partitioned pricing entails dividing the price into multiple components without disclosing the total. Drip pricing is the practice of advertising only part of a product's price upfront and revealing additional charges later as consumers go through the buying process.'' *Id.* at v.

live-event tickets market and subsequently issued a staff report on the subject.[220]

The Commission's law enforcement partners have also brought actions addressing unfair or deceptive practices relating to fees. For example, State Attorneys General have brought cases against hotel chains and delivery apps involving unfair or deceptive fees.[221] Numerous private lawsuits have involved unfair or deceptive fees across various industries.[222]

Some States have also taken legislative or regulatory action involving unfair or deceptive fees. For example, California[223] and Pennsylvania[224] legislators have introduced legislation prohibiting advertising prices that do not include all mandatory fees, with some exceptions. In June 2022, New York passed legislation directed at increasing transparency during the ticket-buying process, banning hidden fees for live events, and prohibiting delivery fees on tickets delivered electronically or printed at home.[225] Similar legislation has been introduced in Massachusetts.[226]

Regulators in countries such as Canada and Australia, as well as international bodies such as the European Union, have also begun regulating unfair and deceptive fee practices. In September 2023, the United Kingdom solicited public comment on drip pricing. That numerous countries outside of the United States have addressed fees and deceptive pricing through legislation and law enforcement lends additional support to the conclusion that these types of fees are prevalent. Paragraph 74.01(1.1) of the Canadian Competition Act[227] regulates drip pricing and has resulted in actions against online ticket sellers, car rental services, and flight-booking services.[228] Similarly, the Australian Competition and Consumer Act of 2010 requires businesses to prominently display a figure that represents the single price for goods or services.[229] European Union law prohibits misleading and aggressive commercial practices toward consumers, with specific directives requiring that consumers be informed of the total price of goods and services.[230] The UK Department for Business & Trade commissioned research demonstrating that drip pricing is prevalent across the economy and started a ''consultation'' soliciting public views.[231]

IV. Reasons for the Proposed Rule on Unfair or Deceptive Fees

The Commission believes that the proposed rule will substantially improve its ability to combat the most prevalent unfair or deceptive practices relating to fees and other charges and may also strengthen deterrence against these practices in the first instance. While unfair or deceptive practices relating to fees are already unlawful under Section 5 of the FTC Act, which prohibits unfair or deceptive acts or practices, the proposed rule (if finalized) will allow the Commission to seek civil penalties against violators and

[220] Fed. Trade Comm'n, ''*That's the Ticket*'' *Workshop: Staff Perspective, 4* (May 2020).

[221] *See, e.g.,* Assurance of Voluntary Compliance ¶ 2, *Texas* v. *Marriott Int'l, Inc.,* No. 2023CI09717 (Tex. Dist. Ct. May 16, 2023) (alleging defendant misrepresented various fees, including resort fees, and did not include all mandatory fees in the advertised room rate in violation of the Texas Deceptive Trade Practices Act); Plaintiff's Original Pet. ¶ 1, *Texas* v. *Hyatt Hotels Corp.,* No. C2023–0884D (Tex. Dist. Ct. May 15, 2023) (alleging defendant did not include mandatory fees in advertised room rates in violation of the Texas Deceptive Trade Practices Act); Consent Order ¶ 6, *District of Columbia* v. *Maplebear, Inc.,* No. 2020 CA 003777B (D.C. Super. Ct. Aug. 19, 2022) (prohibiting defendant from misrepresenting the nature and purpose of fees applied to consumers' orders); Compl. ¶¶ 2, 5–8, *District of Columbia* v. *Grubhub Holdings, Inc.,* No. 2022 CA 001199 B, (D.C. Super. Ct. filed Mar. 21, 2022) (alleging in part that defendants misrepresented to consumers that defendants' only fee was a ''Delivery Fee'' while obscuring a ''Service Fee'' or disclosing a ''Small order fee'' only at the end of the checkout process); Assurance of Voluntary Compliance ¶ 2, *Commonwealth* v. *Marriott Int'l, Inc.,* No. GD–21–014016 (Pa. Ct. C.P. Nov. 16, 2021) (alleging defendant misrepresented its room rates by failing to include items such as mandatory fees in its pricing); Consent Order ¶ 3.1–3.18, *In re Drivo LLC,* N.J. Div. Consumer Aff. (Sept. 16, 2020) (prohibiting unfair and deceptive practices relating to damage fees and third party reservation fees for rental vehicles); Agreed Final J. ¶ 8, *Texas* v. *Guided Tourist, LLC,* No. D–1–GN–19–001618 (Tex. Dist. Ct. Mar. 26, 2019) (enjoining defendant from advertising ticket prices other than the total ticket price, including all mandatory fees); Settlement Agreement ¶¶ 8(b)–(c), *Florida* v. *Dollar Thrifty Auto. Grp., Inc.,* Case No. 16-2018–cv–005938, (Fla. Cir. Ct. Jan. 14, 2019) (alleging in part that defendant misrepresented optional charges as mandatory and did not sufficiently disclose toll-related fees). Additionally, Intuit recently entered into a multistate settlement of allegations that it misrepresented its tax filing products would come at no cost. *See generally,* Assurance of Voluntary Compliance, *Commonwealth* v. *Intuit Inc.,* No. 220500324 (Pa. Ct. C.P. May 4, 2022).

[222] *See, e.g.,* Compl. ¶¶ 4–6, *Hecox* v. *DoorDash, Inc.,* No. 1:23–cv–01006 (D. Md. filed Apr. 14, 2023) (alleging in part that defendant employs deceptively named fees leading consumers to mistakenly believe the fees were for delivery people or the municipality); Class Action Compl. ¶¶ 7–16, *Ramirez* v. *Bank of Am., N.A.,* No. 5:22–cv–00859 (N.D. Cal. filed Feb. 10, 2022) (alleging misrepresentations about the refundability of fees); Compl. ¶¶ 2–3, *Abdelsayed* v. *Marriot Int'l, Inc.,* No. 3:21–cv–00402 (S.D. Cal. filed Mar. 5, 2021) (alleging defendant engaged in drip pricing by baiting consumers with lower prices and adding charges, such as resort fees, amenity fees, and destination fees, throughout the vending process); Compl. ¶¶ 1, 3–5, *Travelers United* v. *MGM Resorts Int'l, Inc.,* No. 2021–CA–00477–B (D.C. Super. Ct. filed Feb. 18, 2021) (alleging defendant hid portions of daily room rates via resort fees and ultimately misled consumers); Compl. ¶¶ 18, 31, 43, *Lee* v. *Ticketmaster LLC,* No. 18–cv–05987 (N.D. Cal. filed Sept. 28, 2018) (alleging, in part, that defendants were unjustly enriched through service charges added to resale tickets); Second Am. Compl. ¶¶ 1–2, *Wang* v. *Stubhub, Inc.,* No. CGC–18564120 (Cal. Super. Ct. filed Feb. 25, 2019) (alleging defendant intentionally hid additional fees in order to advertise artificially low ticket prices); Class Action Compl. ¶¶ 1, 33–34, *Holl* v. *United Parcel Service, Inc.,* No. 3:16–cv–05856 (N.D. Cal. filed Oct. 11, 2016) (alleging misrepresentations about the amount of fees); Class Action Compl. ¶¶ 27, 36, 46–51, *Cross* v. *Point and Pay LLC,* No. 6:16–cv–01182 (M.D. Fla. filed June 29, 2016) (same). *See also* FTC–2022–0069–6042 (tracking class action cases related to unfair and deceptive fees).

[223] Cal. S.B. 478, (2023–2024) Regular Session.

[224] H.B. 636 (2023–2024) (Pa. 2023).

[225] N.Y. Arts & Cult. Aff. Law Sec. 25.01–25.33 (McKinney 2023); *see also Governor Hochul Signs Legislation Targeting Unfair Ticketing Practices in Live Event Industry* (June 30, 2022), *https://www.governor.ny.gov/news/governor-hochul-signs-legislation-targeting-unfair-ticketing-practices-live-event-industry.*

[226] An Act Ensuring Transparent Ticket Pricing, H.259, 193rd Gen. Court (Mass. 2023) (would amend Massachusetts' law licensing the sale of admission tickets, Mass. Gen. Laws ch. 140, Sec. 182A, to require the truthful, non-deceptive, clear, and conspicuous disclosure of the total cost of a ticket, and what portions represent a service charge or other ancillary fee, prior to selection, and to prohibit the price from increasing, except for certain delivery fees, prior to payment).

[227] Competition Act, R.S.C., 1985, c. C–34, ¶ 74.01(1.1) (Can.), *https://laws.justice.gc.ca/eng/acts/C-34/FullText.html.*

[228] *See, e.g.,* several deceptive pricing cases, among others, made public by the Canadian Competition Bureau at *https://ised-isde.canada.ca/site/competition-bureau-canada/en/deceptive-marketing-practices/cases-and-outcomes.*

[229] *Competition and Consumer Act 2010,*Vol. 4, Sched. 2, Ch. 3, P. 3–1, Sec. 48 (Austl.), *https://www.legislation.gov.au/Details/C2023C00043.*

[230] Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market, *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02005L0029-20220528; see also* Directive 2011/83/EU of the European Parliament and of the Council of 25 October 2011 on consumer rights, *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02011L0083-20220528.* Additionally, a 1998 Directive required that the selling price should be indicated for all products referred to in the Article, which means a price that is the final price for a unit of the product including VAT and all other taxes. Directive 98/6/EC of the European Parliament and of the Council of 16 February 1998 on consumer protection in the indication of the prices of products offered to consumers, *https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A01998L0006-20220528.*

[231] UK Department for Business & Trade, Estimating the Prevalence and Impact of Online Drip Pricing (2023), *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1182208/estimating-the-prevalence-and-impact-of-online-drip-pricing.pdf;* UK Department for Business & Trade, Smarter Regulation: Consultation on Improving Price Transparency and Product Information for Consumers (2023), *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1182962/consultation-on-improving-price-transparency-and-product-information-for-consumers.pdf.*

more readily obtain monetary redress for the consumers who are harmed.

The Commission's objectives in commencing this rulemaking are to deter deceptive and unfair acts or practices involving fees, to promote a level playing field that enables comparison shopping and allows honest businesses to compete, and to expand the available remedies where such practices are uncovered. In the ANPR, the Commission described how a recent U.S. Supreme Court decision,[232] which overturned 40 years of precedent from the U.S. Circuit Courts of Appeal that uniformly held the Commission could take action under Section 13(b) of the FTC Act to return money unlawfully taken from consumers through unfair or deceptive acts or practices, has made it significantly more difficult for the Commission to return money to injured consumers.[233] Without Section 13(b) as it had historically been understood, the Commission's only means to return money unlawfully taken from consumers is Section 19, which provides two paths for consumer redress. The longer path under Section 19(a)(2) requires the Commission to first obtain a final administrative order. Then, to recover money for consumers, the Commission must prove in Federal court that the violator engaged in fraudulent or dishonest conduct.[234] The shorter path under Section 19(a)(1), which allows the Commission to recover consumer redress directly through a Federal court action or obtain civil penalties, is available only when a rule has been violated.[235]

The proposed rule will make available the shorter path in a broader set of Commission enforcement actions so that it can more efficiently redress consumers. Currently, the Commission can directly pursue in Federal court Section 19 remedies, including civil penalties and consumer redress, for unfair or deceptive practices relating to fees only if those practices violate certain other rules or statutes enforced by the Commission, such as the Commission's Telemarketing Sales Rule (''TSR''),[236] the Restore Online Shoppers' Confidence Act (''ROSCA''),[237] Negative Option Rule,[238] or Funeral Rule,[239] which prohibit unfair or deceptive pricing practices, but apply only in specific contexts. Further, the FTC has addressed unfair or deceptive fee practices through numerous enforcement actions, warning letters, workshops, and reports spanning more than a decade.[240] Despite these efforts, the issues associated with unfair or deceptive fees have persisted. Prohibiting unfair or deceptive practices relating to fees across industries expands the Commission's enforcement toolkit and allows it to deliver on its mission by stopping and deterring harmful conduct and making American consumers whole when they have been wronged. Because unfair or deceptive practices relating to fees are so prevalent and so harmful, the unlocking of additional remedies through this rulemaking, particularly the possibility of seeking civil penalties against violators as well as obtaining redress for consumers who are harmed, will allow the Commission to more effectively police unfair or deceptive fee practices.

V. Overview and Scope of the Proposed Rule on Unfair or Deceptive Fees

The Commission's proposed rule is straightforward. It borrows from existing rules and statutory definitions by declaring that unfair or deceptive practices with respect to fees are unlawful. These unfair or deceptive practices include bait-and-switch pricing and misrepresenting the nature and purpose of fees. As noted in Section III, case law, the Commission's experience, the experience of commenters, and other evidence cited herein are replete with examples of such unfair or deceptive practices.

Several commenters raised questions about jurisdiction. The Commission's enforcement of the proposed rule is subject to all existing limitations of the law: of unfair or deceptive acts or practices under the FTC Act; of the FTC's jurisdiction; and of the U.S. Constitution—the Commission cannot bring a complaint to enforce the rule if the complaint would exceed the Commission's jurisdiction or offend the Constitution.

The Commission invites written comments on the proposed Rule, and, in particular, answers to the specific questions set forth in Section X.

A. § 464.1 Definitions

Proposed § 464.1 contains definitions for the following terms: ''Ancillary Good or Service,'' ''Business,'' ''Clear(ly) and Conspicuous(ly),'' ''Government Charges,'' ''Pricing Information,'' ''Shipping Charges,'' and ''Total Price.'' Each of these terms is used in the proposed Rule.

''Ancillary Good or Service'' is defined as any additional good(s) or service(s) offered to a consumer as part of the same transaction. This would include goods or services not necessary to render the primary good or service fit for its intended use but are nevertheless offered as part of the same transaction. An Ancillary Good or Service may be mandatory or optional. For example, if a hotel offers a consumer the option to purchase or decline trip insurance with a room reservation, the insurance would be an optional ancillary service. If a housing rental agreement includes a fee that the consumer cannot reasonably avoid for a trash valet service, it would be a mandatory ancillary service. If a business includes a fee the consumer cannot reasonably avoid to process the payment for any good or service, such payment processing would be a mandatory ancillary service.

''Business'' is defined as an individual, corporation, partnership, association, or any other entity that offers goods or services, including, but not limited to, online, in mobile applications, and in physical locations. This definition is industry neutral. However, this definition contains a carveout for certain motor vehicle dealers that must comply with 16 CFR 463, requiring a cash price disclosure and prohibiting misrepresentations. On July 13, 2022, the Commission published in the **Federal Register** a notice of proposed rulemaking for a Motor Vehicle Dealers Trade Regulation Rule, which if finalized would be published at 16 CFR 463. The proposed Motor Vehicle Dealers Rule would require covered motor vehicle dealers to, among other things, disclose the true ''Offering Price'' of a vehicle in advertisements or communications that reference a specific vehicle or any monetary amount or financing term for any vehicle, and would prohibit dealers from making certain misrepresentations. The proposed Rule on Unfair or Deceptive Fees provides that if the Commission finalizes the proposed Motor Vehicle Dealers Rule's Offering Price and misrepresentations provisions and such rule is published and in effect at 16 CFR 463, motor vehicle dealers subject to that part would be excluded from coverage under the proposed Rule

[232] *AMG Cap. Mgmt.,* 141 S. Ct. 1341.

[233] Fed. Trade Comm'n, ANPR: Unfair or Deceptive Fees Trade Regulation Rule Commission Matter No. R207011, 87 FR 67413 at 67415 (Nov. 8, 2022), *https://www.federalregister.gov/documents/2022/11/08/2022-24326/unfair-or-deceptive-fees-trade-regulation-rule-commission-matter-no-r207011.*

[234] *See* 15 U.S.C. 57b(a)(2) (''If the Commission satisfies the court that the act or practice to which the cease and desist order relates is one which a reasonable man would have known under the circumstances was dishonest or fraudulent, the court may grant relief.'').

[235] *Compare* 15 U.S.C. 57b(a)(1) (rule violations), *with id.* 57b(a)(2) (Section 5 violations).

[236] 16 CFR 310.

[237] 15 U.S.C. 8401–8405.

[238] 16 CFR 425.

[239] 16 CFR 453.

[240] *See* discussion *supra* Section III.C.

on Unfair or Deceptive Fees. If there is no provision published and in effect at 16 CFR 463 requiring motor vehicle dealers to disclose the cash price and prohibiting misrepresentations, motor vehicle dealers would not be exempt from the definition of ''Business'' and therefore would be subject to the proposed Rule on Unfair and Deceptive Fees.

''Clear(ly) and Conspicuous(ly)'' is defined consistently with longstanding Commission interpretation and practice.

''Government Charges'' means all fees or charges imposed on consumers by a Federal, State, or local government agency, unit, or department. This definition covers only fees or charges imposed by the government on consumers and does not encompass fees or charges that the government imposes on a business and that the business chooses to pass on to consumers.

''Pricing Information'' is defined as any information relating to any amount a consumer may pay.

''Shipping Charges'' is defined as all fees or charges that reasonably reflect the amount a Business incurs to send physical goods to a consumer through the mail, including private mail services. This definition does not include delivery through couriers, such as those in mobile delivery applications. This definition is limited to the amount that reasonably reflects what a Business incurs to send goods. Thus, for the purposes of the provision that references Shipping Charges, a Business cannot artificially inflate the cost of shipping.

''Total Price'' is defined as the maximum total of all fees or charges a consumer must pay for a good or service and any mandatory Ancillary Good or Service, except that Shipping Charges and Government Charges may be excluded. The use of the phrase ''maximum total'' would allow businesses to apply discounts and rebates after disclosing the Total Price. Because the Total Price includes all charges that a consumer must pay, it covers mandatory charges. As explained in Section III.A., because there is an implied representation that a good or service offered for sale is fit for the purposes for which it is sold, a Business cannot treat a feature as optional if it is necessary to render the good or service fit for its intended use. The Total Price need not include Shipping Charges (all fees or charges that reasonably reflect the amount a Business incurs to send physical goods to a consumer through the mail, including private mail services) and Government Charges (all fees or charges imposed on consumers by a Federal, State, or local government agency, unit, or department). Because the Shipping Charges must reasonably reflect the amount a Business incurs, a Business cannot artificially inflate the cost of shipping that is excluded from the Total Price. A Business likewise cannot artificially inflate taxes excluded from the Total Price because the definition of Government Charges covers only those charges imposed by the government on consumers.

B. § 464.2 Hidden Fees Prohibited

The prohibition against bait-and-switch pricing in proposed § 464.2(a) would cover unlawful conduct by Businesses that offer, display, or advertise an amount a consumer may pay without Clearly and Conspicuously disclosing the Total Price. In this rule, the Total Price includes all charges that a consumer must pay for a good or service, including any mandatory Ancillary Good or Service. As explained in Section V.A., Total Price need not include Shipping Charges and Government Charges. Proposed § 464.2(b) clarifies that a Business that is required to disclose the Total Price in an offer, display, or advertisement under § 464.2(a) must disclose it more prominently than any other Pricing Information.

The prohibition on hidden fees applies to amounts ''offered, displayed, or advertised'' by a Business even if a different entity provides the good or service. For example, if an online travel agent advertises a price for a hotel room provided by a hotel chain, the online travel agent must display the Total Price, inclusive of mandatory fees charged by the hotel chain. Similarly, if a Business advertises a price for a product that it provides to the consumer and requires an ancillary good or service provided by another entity, such as payment processing, the charge for the mandatory ancillary good or service must be included in the Total Price.

The Commission anticipates the possibility of providing certain exclusions from the proposed rule, including for some financial products where the Total Price cannot practically be determined. As discussed in Section X, the Commission is seeking comment on the proper scope of any such exclusion. Further, as discussed in Section V.A., the proposed rule also contains a carveout for certain motor vehicle dealers that must comply with 16 CFR 463, which requires cash price disclosures and prohibits certain misrepresentations.

B. § 464.3 Misleading Fees Prohibited

The prohibition against misrepresenting the nature and purpose of any amount a consumer may pay in § 464.3(a) covers misrepresentations about a fee's nature and purpose, which includes the refundability of such fees as well as the identity of any good or service for which fees are charged.

Section 464.3 includes a preventative disclosure requirement pursuant to the Commission's Section 5 authority.[241] The preventative disclosure requirement in § 464.3(b) requires Businesses to disclose, Clearly and Conspicuously and before the consumer consents to pay, the nature and purpose of any amount a consumer may pay that is excluded from the Total Price. An amount a consumer may pay that is excluded from the Total Price includes any Shipping Charges, Government Charges, optional fees, voluntary gratuities, and invitations to tip. As with § 464.3(a), the nature and purpose of fees includes the refundability of such fees and the identity of any good or service for which fees are charged. By requiring disclosure of the nature and purpose of fees, this provision helps prevent Businesses from omitting mandatory fees from the Total Price in violation of § 464.2(a) and misrepresenting the nature and purpose of fees in violation of § 464.3(a). For example, if a Business discloses the identity of the good or service for which an additional fee is charged, it becomes apparent what benefit a consumer can reasonably expect from it and whether the feature is something that is necessary for the intended use of the primary purchase. This information is necessary for a consumer to understand what they are purchasing and to decide whether to consent to the charge.

Sections 464.3(a) and (b) operate together to prohibit Businesses from misrepresenting the nature and purpose of fees by using vague descriptions. For example, a meal delivery app that chooses to itemize a mandatory service charge as part of the Total Price cannot mislead consumers about the service for which the fee is charged. If a portion of the service charge is used to compensate a delivery driver while another portion is used to compensate the Business for providing the online application, a description that combines both portions without specifying the recipient of each portion of the service charge would violate § 464.3(a). Similarly, a Business must disclose, and cannot misrepresent the nature and purpose of, Shipping Charges, Government Charges, optional fees, voluntary gratuities, and invitations to tip that are excluded from

[241] 15 U.S.C. 57a(a)(1)(B) (''Rules under this subparagraph may include requirements prescribed for the purpose of preventing such acts or practices.'').

the Total Price. If a delivery application includes an invitation to tip a delivery driver without disclosing that a portion of the tip is allocated to offset the delivery driver's base wages or benefits, it would violate § s 464.3(a) and (b), in addition to any other laws or regulations relating to the distribution of tips.

D. § 464.4 Relation to State Laws Provision

The relation to State laws provision in § 464.4 would prevent the rule from superseding State laws unless there is an inconsistency.

VI. The Rulemaking Process

The Commission can decide to finalize the proposed rule if the rulemaking record, including the public comments in response to this NPRM, supports such a conclusion. The Commission may, either on its own initiative or in response to a commenter's request, engage in additional processes, which are described in 16 CFR 1.12 and 1.13. If the Commission on its own initiative decides to conduct an informal hearing, or if a commenter files an adequate request for such a hearing, then a separate notice will issue under 16 CFR. 1.12(a). Based on the comment record and existing prohibitions against unfair or deceptive practices relating to fees under Section 5 of the FTC Act, the Commission does not currently identify any disputed issues of material fact that need to be resolved at an informal hearing.[242]

VII. Preliminary Regulatory Analysis

Under Section 22 of the FTC Act, the Commission, when it publishes any NPRM, must include a ''preliminary regulatory analysis.'' 15 U.S.C. 57b–3(b)(1). The required contents of a preliminary regulatory analysis are (1) ''a concise statement of the need for, and the objectives of, the proposed rule,'' (2) ''a description of any reasonable alternatives to the proposed rule which may accomplish the stated objective,'' and (3) ''a preliminary analysis of the projected benefits and any adverse economic effects and any other effects'' for the proposed rule and each alternative, along with an analysis ''of the effectiveness of the proposed rule and each alternative in meeting the stated objectives of the proposed rule.'' 15 U.S.C. 57b–3(b)(1)(A)–(C).

[242] The Commission may still do so later, on its own initiative or in response to a persuasive showing from a commenter.

A. Concise Statement of the Need for the Rule and Its Objectives

This proposed rule is needed to address the prevalent business practices of presenting incomplete pricing information that obscures the total price and misrepresenting the nature and purpose of fees, which are unfair or deceptive practices. The proposed rule aims to (a) prohibit and prevent these unlawful practices, (b) foreclose businesses from circumventing the purpose of the rule, such as by mischaracterizing essential components of a product as optional add-on components, shipping, or taxes, (c) promote a level playing field that enables comparison shopping and allows honest businesses to compete, and (d) empower the Commission to provide monetary redress to consumers and to seek civil penalties if warranted. Section IV provides more detail regarding the need for, and the objectives of, the proposed rule. The NPRM addresses the other requirements in this section.

B. Reasonable Alternatives and Anticipated Costs and Benefits

The Commission believes that the benefits of proceeding with the rulemaking will significantly outweigh the costs, but it welcomes public comment and data (both qualitative and quantitative) on any benefits and costs to inform a final regulatory analysis. Critical to the Commission's analysis is the legal consequence that any eventual rule would allow not only for the ability to redress consumers who are harmed by rule violations, but also for the deterrence value of the threat of civil penalties against violators. Such results are likely to provide benefits to consumers and competition, as well as to the agency, without imposing any significant costs on consumers or competition. It is difficult to quantify with precision what all those benefits may be, but it is possible to describe them qualitatively.

It is useful to begin with the scope of the problem the proposed rule would address. As discussed in the ANPR and documented in the comments received and existing literature on shrouded pricing, unfair or deceptive practices relating to fees pervade various industries, harming consumers and competition. For example, empirical and theoretical models suggest that mandatory hidden fees may lead consumers to pay more than they otherwise would in a truly transparent marketplace. This can lead to a transfer of wealth away from consumers to the firms who successfully hide their true prices. Studies suggest that unfair or deceptive pricing strategies may also lead consumers to put less effort into searching for lower prices. Deceptive pricing may harm competition by directing consumers away from businesses with the best price and honest practices to businesses with prices that are higher, less transparent, and more deceptive. This makes it harder for the genuine price cutter to attract consumers and enables the higher-priced rival to effectively shroud its comparatively higher prices, thereby reducing real price competition.[243]

Given the proliferation of unfair or deceptive pricing practices relating to fees, it is not surprising that cases relating to unfair or deceptive fee practices have recently constituted, and are likely to constitute in the future, a meaningful share of Commission enforcement actions, and in many of those actions a rule may prove to be the only or the most practicable means for achieving consumer redress. As such, a significant anticipated benefit of a final rule is the ability to obtain monetary relief, especially consumer redress, as well as civil penalties. While such relief could also be obtained for certain fee-related practices with an existing rule or statute, such as the TSR, ROSCA, and the Negative Option Rule, by no means do all unfair or deceptive practices relating to fees implicate an existing rule or statute.

To succeed at obtaining consumer redress without a rule violation, the Commission must first obtain an administrative cease-and-desist order based on Section 5 violations. Then, to secure consumer redress for victims, the Commission must file an action in Federal court under Section 19(a)(2) and persuade a court in each case that the conduct at issue is ''one which a reasonable man would have known under the circumstances was dishonest or fraudulent.'' [244] Although this standard is likely to be met in some cases relating to unfair or deceptive practices relating to fees, having to prove as much in each case requires a

[243] *See, e.g.,* FTC–2022–0069–6095 (describing harm to competition and honest businesses through price obfuscation); Sullivan, *supra* n. 153, at 4; Rasch, supra n. 153, at 362–63 (''[E]xperimental evidence suggests that consumers indeed strongly and systematically underestimate the total price under drip pricing and make mistakes when searching''); Shelanski, *supra* n. 153, at 314–16; Blake, *supra* n. 153, at 16; Huck & Wallace, *supra* n. 153, at 4; Ellison & Ellison, *supra* n. 153, at 2–6; Busse & Silva Risso *supra* n. 153, at 470–74; National Economic Council, *The Competition Initiative and Hidden Fees, supra* n. 167.

[244] 15 U.S.C. 57b(a)(2). Depending on the egregiousness of the misconduct and the harm it is causing, the Commission also may seek preliminary injunctive relief in Federal court. 15 U.S.C. 53(b).

greater expenditure of Commission resources than in cases with a rule violation, which allow the Commission to proceed directly in Federal court and do not require separate proof of knowledge that the conduct was dishonest or fraudulent.

Accordingly, without a rule, the Section 19(a)(2) path often requires consumer victims to wait many years before the Commission can deliver redress to them, even six years or more.[245] The Commission's experience supports a reasonable estimate that administrative litigation can take at least twice as long as Federal litigation with a rule violation. Because of the prevalence of unfair or deceptive practices relating to fees, the Commission will not have a shortage of actors to investigate. Having a rule would result in a savings of enforcement resources, which could be invested into investigating and, where the facts warrant, bringing additional enforcement actions. In sum, significant potential benefits of a rule are that the Commission could put a stop to more unfair or deceptive practices relating to fees, return money to more victims, and obtain that redress more quickly.

Another potential significant benefit is deterrence of unfair or deceptive practices relating to fees. The Commission anticipates that most companies that are subject to any eventual rule would comply with it right away, especially as their competitors would also be bound by it. And for companies that do not immediately comply, an eventual rule that makes it less likely they could evade redressing consumers and more likely that they have to pay civil penalties can have only helpful deterrence effects, whatever their magnitude.[246] Any eventual rule could also have the salutary effect of complementing the Commission's consumer education work by elevating public awareness of these prevalent unfair or deceptive practices relating to fees, which could increase how often they are detected and reported.

In analyzing the potential costs and benefits of the proposed rule, the Commission also considered several alternatives to the rule including terminating the rulemaking, pursuing narrower rule alternatives and pursuing broader rule alternatives. One potentially reasonable alternative to the proposed rule is to terminate the rulemaking and rely instead on the existing tools that the Commission currently possesses to combat unfair or deceptive practices relating to fees, such as consumer education and enforcement actions brought under Sections 5 and 19(a)(2) of the FTC Act. Termination of the rulemaking would offer the benefit of preserving some Commission resources that would be required to continue the rulemaking in the short term, but it would come at a significant cost. The cost that is most significant is the failure to strengthen the set of tools available in support of the Commission's enforcement program against unfair or deceptive practices relating to fees, depriving it of the benefits outlined in this section.

Other potential reasonable alternatives to the proposed rule could narrow the proposed rule's scope. As discussed in Section III, bait-and-switch pricing and misrepresentations relating to fees are prevalent across the economy. However, much media attention has been focused on fees related to live-event ticketing and short-term lodging, and the Commission received many comments related to these two sectors in response to the ANPR. An alternative to the proposed rule would be to propose a rule addressing pricing only in these specific sectors. The Commission believes, however, that limiting the proposed rule to specific sectors that have received extensive attention would leave the door open to widespread unfair or deceptive practices in other sectors. One benefit of the proposed industry-neutral rule is that consumers will likely have greater confidence in knowing when the rule applies to their purchases compared to a sectoral rule in which only certain industries are required to show Total Price. Further, comments received in response to the ANPR, described in Section II, noted the importance of applying a proposed rule to all market sector members to establish a level playing field and to avoid granting individual industry members competitive advantages by excluding them from rule coverage. A narrower alternative rule could fail to address the identified unfair or deceptive fee practices in large swaths of the economy and give some businesses an unfair competitive advantage.[247]

In addition, the proposed rule could have been subject to further narrowing principles, including proposing a rule that exempted small businesses or focused solely on online-only transactions. An alternative rule that exempted small businesses from the proposed requirements in § 464.2 could have the benefit of avoiding compliance costs borne by small businesses with smaller profit margins that might cause them to be impacted disproportionately by the proposed rule. On the other hand, a rule exempting small businesses might impose more uncertainty and compliance costs for businesses to determine whether the rule applies to them and, as noted in this section, comments from industry favored a rule that applied to industry members equally to avoid the creation of competitive advantages. Narrowing the scope of the rule in this way could also reduce consumer benefits arising from increased price transparency across markets and lower consumer confidence regarding whether the rule applies to specific purchases.

Another narrower alternative rule focused on online-only transactions could preserve many benefits discussed in this section of an industry-neutral rule because it would cover many of the industries about which the Commission received a large number of comments. As a result, this alternative would likely still benefit a large number of consumers. It may also avoid unintended consequences in some industries, particularly those with complicated pricing structures.

[245] *See, e.g.,* Press Release, Fed. Trade Comm'n, *Marketers of Ab Force Weight Loss Device Agree to Pay $7 Million for Consumer Redress* (Jan. 14, 2009), *https://www.ftc.gov/news-events/news/press-releases/2009/01/marketers-ab-force-weight-loss-device-agree-pay-7-million-consumer-redress* (describing a 2009 settlement of a follow-on Section 19 action against Telebrands Corp. that was brought after litigation finally concluded of a 2003 administrative complaint alleging violations of Section 5—in this case, the Section 19 action settled instead of being litigated to judgment, which would have taken more time).

[246] In its comment, the National Automobile Dealers Association, FTC–2022–0069–6043, noted that ''the Commission's desire for monetary penalty authority over a practice that is already impermissible under current law is not a legally adequate basis for the issuance of a trade regulation rule.'' This argument misses the mark because an eventual rule would not merely constitute a restatement of existing law. As noted in this preamble, the Commission has carefully analyzed the unfair or deceptive nature of failing to include mandatory fees and charges in total price quotes and misrepresenting the nature or purpose of fees. Moreover, an eventual rule would provide consumers with monetary relief in cases where the Commission is unable to allege a rule violation currently, and it would have a deterrent effect on businesses that, to date, continue to engage in these unfair or deceptive pricing practices.

[247] As part of its broader analysis, this NPRM considered the costs and benefits of the proposed rule as it applied to three specific industries: short-term lodging, live-event ticketing, and restaurants. There is a potential cost savings associated with not requiring compliance with the proposed rule for industries outside of live-event ticketing and short-term lodging. Further, there may be unintended consequences of the proposed rule on some industries. This NPRM seeks comment on these potential unintended consequences and seeks data that would facilitate further analysis of the costs and benefits of narrowing the proposed rule to specific sectors.

However, a rule that focused exclusively on online-only transactions could fail to address prevalent unfair and deceptive practices that occur in-person or incentivize businesses with online and in-person customer interactions to bifurcate transactions.[248] Further, it might introduce uncertainty and compliance costs for businesses that operate both online and in-person. Section X seeks comment on these potential narrowing alternatives, including requests for data not currently available to the Commission to develop a quantitative analysis of the costs and benefits.

As noted in Section II, many comments to the ANPR expressed frustration with fees commenters deemed ''excessive'' or ''worthless.'' An alternative to the proposed rule would be to address these fees explicitly. Such an alternative would benefit consumers who are paying excessive amounts for basic goods or services and those who are paying for goods or services that provide them little to no value by prohibiting businesses from charging such fees. This economic transfer would allow consumers to save their money or spend it elsewhere on other goods or services that *do* provide them value. However, a rule prohibiting worthless and excessive fees could incur additional costs for industry to determine whether a fee qualified as worthless or excessive under the rule. In addition, some of the benefits of an alternative rule prohibiting worthless or excessive fees may already be accomplished by the proposed rule. For example, in connection with worthless fees, the proposed rule would require all mandatory fees to be included in the Total Price whether those fees arguably add value to consumers or not. Transparency and competition on price could then disincentivize businesses from incorporating such fees into their pricing schemes altogether. In addition, consumer confusion related to the purpose of worthless fees would be addressed by the provisions in the proposed rule that prohibit misrepresenting fees and require the disclosure of the nature and purpose of optional fees. Section X requests comment on potential alternatives prohibiting fees that provide little or no value to consumers and fees that are excessive, including how to define such fees.

In sum, the alternative of terminating the rulemaking would not sufficiently accomplish the Commission's objectives. Other alternatives discussed here would accomplish some, but not all, of the Commission's objectives. The Commission seeks comment on these alternatives and any other potentially reasonable alternatives. While there may be other alternatives that could potentially accomplish the stated objectives, the Commission would benefit from additional data to conduct preliminary analyses of projected benefits and adverse economic effects.[249] Therefore, the Commission seeks comment on whether there are other potentially reasonable alternatives, including any relevant sources of data that reflect the costs and benefits of such alternatives.

C. Economic Analysis of Costs and Benefits of the Proposed Rule

The following analysis describes the anticipated impacts of the proposed rule. Our analysis concludes that on an economy-wide basis, there are positive benefits to the proposed rule if the benefit per consumer is at least $6.65 per consumer per year over a 10-year period.[250] This NPRM discusses the proposed regulatory requirements in the following areas:

1. Prohibits offering, displaying, or advertising an amount a consumer may pay without adequate disclosure of the Total Price, as defined in the proposed rule.

2. Prohibits misrepresentations regarding the nature and purpose of any amount a consumer may pay, and requires disclosures of the nature and purpose of any amount a consumer may pay that is excluded from the Total Price. This includes disclosing the refundability of such fees, and the identity of any good or service for which fees are charged.

Where possible, the Commission quantifies the benefits and costs and notes that some potential benefits and costs are unquantified. If a benefit or cost is quantified, the sources of the data relied upon are indicated. If an assumption is needed, the text makes clear which quantities are being assumed. Because there is data available to quantify some of the potential benefits and costs in the live-event ticketing and short-term lodging industries and mandatory fees are commonplace in these industries, this preliminary analysis provides quantified benefits and costs for these specific industries separately. Mandatory fees are also common in the restaurant industry. Some of the costs for this industry are quantified, but there is insufficient data to quantify benefits for this industry.

The Commission uses 10 years for the time period of analysis because FTC rules are subject to review every 10 years. Tables 1.A and 1.B summarize the main findings of the regulatory impact analysis. Table 1.A presents the potential benefits and costs of the proposed rulemaking. Panel A summarizes the costs, benefits, and resulting net benefits for the live-event ticketing and short-term lodging industries—the two industries for which data are available to estimate both costs and benefits of the proposed rule. Quantified benefits in these industries derive from time savings consumers would experience due to greater price transparency, leading to more efficient shopping processes. Quantified costs derive from the costs to firms of complying with the proposed rule.

The quantified net benefits for both the live-event ticketing and short-term lodging industries are positive. There are also unquantified benefits and costs. Unquantified benefits may arise from a reduction in deadweight loss as consumers experience greater price transparency and make fewer mistake purchases. Unquantified costs may stem from unintended consequences of the rule, such as any adjustment costs or

[248] For example, many commenters flagged common practices in the hotel and car rental industries that occur at the check-in or check-out counter after the initial ''online'' booking. FTC–2022–0069–0821 (''Another hidden fee is the cost to park your vehicle. You're trapped at the check in desk when you're told it's $60 per night to self park.''); FTC–2022–0069–1746 (''Tricky or deceptive rental car insurance packages that the companies try to sell you at a desk. These details are either not online or very difficult to find.''); FTC–2022–0069–2668 (describing a ''destination fee'' charged in person at a hotel); FTC–2022–0069–5937 (''When I tried to check in I was told a different price for my suite than the one I had booked online. I explained to the front desk assistance that I had booked at a different price. She informed me that their prices include a 'resort fee,' which covers use of the pool, phone, and gym.''); FTC–2022–0069–5944 (describing car rental fees ''not even mentioned to the consumer until they reach the checkout counter''). *See also* Compl. ¶ 8, *Abdelsayed, supra* n. 222 (''When a consumer books online, they cannot tell . . . what they will be separately charged for upon arrival and/or at checkout, well past the point the consumer could make an informed decision.''); Settlement Agreement ¶ 6, *Dollar Thrifty Auto. Grp., Inc., supra* n. 221 (settling claims that defendant misrepresented toll-related fees charged after the consumers drove rental cars on toll roads); Compl. ¶¶ 1, 3–5, 8, *Travelers United, supra* n. 222 (describing resort fees due separately at the property); Compl. ¶ 13, *Shahar* v. *Hotwire, Inc. et al.,* No. 12–CV–6027 (N.D. Cal. filed Nov. 27, 2012) (''[W]hen the customer arrives at the airline ticket counter, hotel check-in desk, or car rental desk, he learns for the first time that he will be unable to obtain the promised services for the agreed upon price, but instead must pay significantly more.'').

[249] Within the Commission's Preliminary Regulatory Analysis is a preliminary analysis of the costs and benefits of the proposed rule, which includes analyses of subsets of the proposed rule. The Commission seeks comment on whether any narrower subset of the proposed rule would constitute a better rule than the proposed rule.

[250] *See infra* Section VII.C.5.

consumer confusion as expectations adjust.

Panel B summarizes the costs and benefits for the restaurant industry and all other remaining industries. Quantified costs derive from compliance. Due to a lack of data, all benefits, including both the increase in time savings and reduction in deadweight loss, of the proposed rule for these industries are unquantified. The inability to quantify such benefits does not indicate that such benefits are trivial; indeed, such unquantified benefits may be substantial.

For both quantified benefits and costs, we provide a range representing the set of assumptions that result in a ''low-end'' or ''high-end'' estimate. These estimates are calculated as present values over the 10-year time frame. Benefits and costs are more valuable to society the sooner they occur. A discount rate (3% or 7%) is used to adjust estimated benefits and costs for differences in timing; a higher discount rate is associated with a greater value for benefits and costs in the present.[251]

Table 1.B presents low-end and high-end estimates of the total quantified economy-wide costs and the necessary ''break-even benefit'' per consumer. Since the Commission is unable to quantify the benefits of the proposed rule at the economy level, we instead calculate the minimum value the proposed rule would need to generate for the average consumer in order for the total benefits of the proposed rule to outweigh its quantified costs. Under the high-end cost assumptions with a 7% discount rate, we find that each consumer would need to experience a benefit of $6.65 per year over 10 years for the proposed rule's benefits to exceed its quantified economy-wide compliance costs.

[251] We use 3% and 7% for the discount rate consistent with Office of Management and Budget's guidance. OMB, *Circular A–4* (Sep. 17, 2023), *https://obamawhitehouse.archives.gov/omb/circulars_a004_a-4/*.

Table 1.A – Summary of Potential Benefits and Costs of Proposed Rule

		Present Value Over a 10-Year Period	
		Low-end Estimate	**High-end Estimate**
Panel A: Costs and Benefits for Ticketing and Short-Term Lodging			
Ticketing			
Quantified Benefits (Time Savings)	7% discount rate	$149,918,030	$1,776,806,284
	3% discount rate	$182,076,794	$2,157,947,183
Quantified Costs (Compliance)	7% discount rate	$14,282,177	$129,453,151
	3% discount rate	$14,282,177	$140,330,460
Unquantified Benefits		*Reduced Deadweight Loss (e.g. efficient quality/quantity purchased, fewer mistake purchases)*	
Unquantified Costs		*Unintended Consequences (e.g. adjustment costs, consumer confusion as expectations adjust)*	
		(Low Benefits – High Cost)	(High Benefits – Low Cost)
Net Benefits (10 Years)	7% discount rate	$20,464,879	$1,762,524,107
Net Benefits (10 Years)	3% discount rate	$41,746,333	$2,143,665,007
Short-Term Lodging			
Quantified Benefits (Time Savings)	7% discount rate	$4,661,731,460	$6,889,087,761
	3% discount rate	$5,661,714,710	$8,366,858,934
Quantified Costs (Compliance)	7% discount rate	$136,472,889	$413,783,170
	3% discount rate	$136,472,889	$441,071,919
Unquantified Benefits		*Reduced Deadweight Loss (e.g. efficient quality/quantity purchased, fewer mistake purchases)*	
Unquantified Costs		*Unintended Consequences (e.g. adjustment costs, consumer confusion as expectations adjust)*	
		(Low Benefits – High Cost)	(High Benefits – Low Cost)
Net Benefits (10 Years)	7% discount rate	$4,247,948,290	$6,752,614,872
Net Benefits (10 Years)	3% discount rate	$5,220,642,791	$8,230,386,045
Panel B: Costs and Benefits for Restaurants and Remaining Industries			
Quantified Costs (Compliance)	7% discount rate	$4,264,844,809	$11,525,776,514
	3% discount rate	$4,264,844,809	$12,526,501,293
Unquantified Benefits		*Increased Time Savings and Reduced Deadweight Loss*	
Unquantified Costs		*Unintended Consequences (e.g. adjustment costs, consumer confusion as expectations adjust)*	

Note: "Low-End Estimate" reflects all scenarios that jointly result in lower estimates of benefits or costs and "High-End Estimate" reflects all scenarios that jointly result in higher estimates of benefits or costs.

Table 1B – Summary of Quantified Costs and Break-Even Benefits of Proposed Rule

		Present Value Over a 10-Year Period	
		Low-end Estimate	High-end Estimate
Total Quantified Costs	7% discount rate	$4,415,599,874	$12,069,012,836
Total Quantified Costs	3% discount rate	$4,415,599,874	$13,107,903,673
Break-even Benefit Per Consumer Per Year	7% discount rate	$2.43	$6.65
Break-even Benefit Per Consumer Per Year	3% discount rate	$2.00	$5.95

Note: "Low-End Estimate" reflects all scenarios that jointly result in lower estimates of benefits or costs and "High-End Estimate" reflects all scenarios that jointly result in higher estimates of benefits or costs.

1. Economic Rationale for Proposed Rule

Insufficient information about or salience of mandatory fees when consumers start the purchasing process for a product may result in a market failure.[252] This incomplete information and lack of transparency leads to a market failure because the true price is shrouded for the consumer. Firms may shroud total prices through the practice of ''drip pricing,'' which is ''a pricing technique in which firms advertise only part of a product's price and reveal other charges later as the customer goes through the buying process.'' [253] While consumers may be able to comparison shop and discover the total price prior to final purchase by going through the checkout process across multiple sellers, this strategy involves additional search costs for the consumer. In some cases, taking the time to search for the total price at a different seller may result in the consumer losing the product at the original seller. Drip pricing and the resulting imposition of additional search costs may make it more difficult for consumers to compare prices across platforms, which may soften price competition in the market.[254]

A market failure may also occur when firms shroud total prices through non-aggregated partitioned pricing, in which all of the components of the total price (base price, fees, etc.) are presented to consumers up front but without the total price itself.[255] Non-aggregated partitioned pricing, like drip pricing, imposes costs on consumers by requiring them to spend additional time to calculate total prices for themselves and by increasing the likelihood of suboptimal choices through erroneous total price calculations.

a. Incomplete Pricing Information and Search Costs

A well-functioning market for a good (or service) depends, in part, on its consumers having accurate information regarding the price of the good. By revealing hidden mandatory fees later in the purchasing process through drip pricing, a firm imposes additional costs on consumers of acquiring this information. By employing partitioned pricing but failing to provide an upfront total price, a firm imposes similar added costs. In either case, several harms may arise. First, keeping consumer choices fixed, the added search cost to acquire price information reduces consumer surplus with no countervailing increase of producer surplus. Second, shrouded prices make comparison shopping more difficult, leading consumers to make suboptimal consumption decisions.

Overall, consumers may find it too costly to search for total price information for some or all goods under consideration. This leads consumer demand to become less elastic, and consumers will accept higher prices relative to an efficient equilibrium. Additionally, as shrouded prices make it harder for consumers to comparison shop, firms may gain more market power that allows them to raise prices.[256]

Figure 1 illustrates this effect of shrouded prices on consumer demand. In this model, the demand curve $D_{upfront\text{-}total}$ represents consumers' true preferences when presented with an upfront total price. When a shrouded price hinders consumers' ability to learn

[252] See Section VII.A., ''Concise Statement of the Need for the Rule and Its Objectives'' for a discussion of the legal rationale for the proposed rule.

[253] Howard A. Shelanski et al., *Economics at the FTC: Drug and PBM Mergers and Drip Pricing,* 41 Rev. Indus. Org., 303–19 (2012), *https://doi.org/10.1007/s11151-012-9360-x.*

[254] The White House, *How Junk Fees Distort Competition* (Mar. 21, 2023), *https://www.whitehouse.gov/cea/written-materials/2023/03/21/how-junk-fees-distort-competition/*; The White House, The President's Initiative on Junk Fees and Related Pricing Practices (Oct. 26, 2022), *https://www.whitehouse.gov/briefing-room/blog/2022/10/26/the-presidents-initiative-on-junk-fees-and-related-pricing-practices/*; Glenn Ellison, *A Model of Add-On Pricing,* 120 Q.J. Econ. 2, 585–637 (2005), *https://www.jstor.org/stable/25098747.*

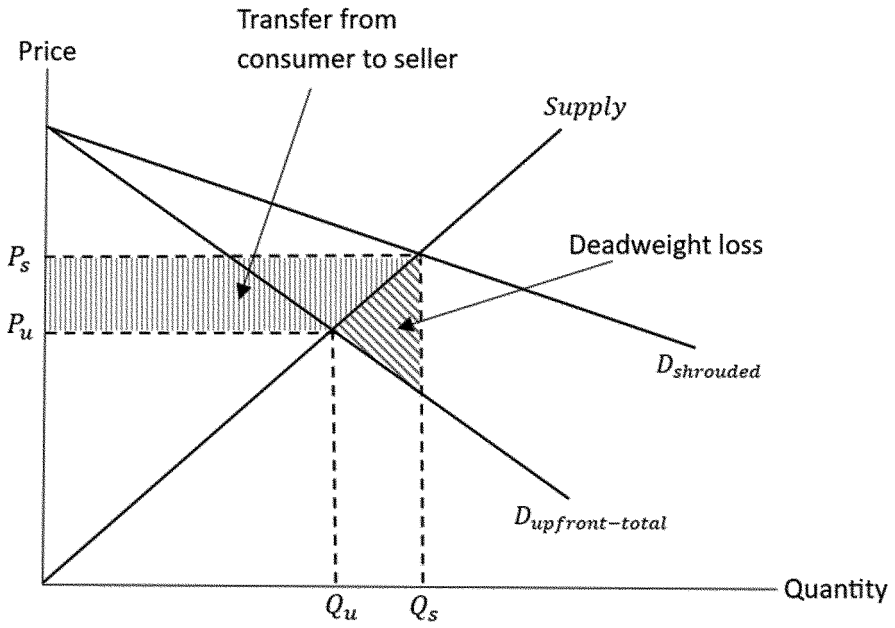
[255] Vicki G. Morwitz et al., *Divide and Prosper: Consumers' Reactions to Partitioned Prices,* 35 J. Mktg. Rsch. 4, 453–63 (1998), *https://doi.org/10.1177/002224379803500404.*

[256] Michael R. Baye et al., *Search Costs, Hassle Costs, and Drip Pricing: Equilibria with Rational Consumers and Firms,* (*Nash-Equilibrium.com,* Working Paper, 2019), *http://nash-equilibrium.com/PDFs/Drip.pdf.*

total prices and efficiently compare competing goods, consumer demand will swing out, as a result of decreased elasticity, as represented by $D_{shrouded}$. Consequently, incomplete price information may lead consumers to purchase more of the good or service at a higher price than they would if they had complete price information.

As a consequence of the higher price paid by consumers, there is a transfer of surplus from consumers to sellers. This transfer correlates with additional profit for producers, who thus have an incentive to increase consumer costs in this manner.[257] Whereas such transfers are neither benefits nor costs in this analysis, the overconsumption also leads to a societal cost in the form of deadweight loss because the resources used to produce the good would have been put to a better use if consumer demand had not been distorted in this manner. This inefficient consumption level and the accompanying increase in consumer search costs represent a market failure.[258]

Figure 1: Effects of price shrouding on consumer demand



Additionally, products are vertically differentiated in many markets, with higher quality items selling at higher prices. In such markets, drip pricing may lead to equilibria characterized by inefficiently high qualities in addition to inefficiently high quantities.[259] Consumers may respond to fully disclosed prices in these markets by purchasing lower quality products in addition to purchasing fewer products.

b. Shrouded Pricing as a Source of Biased Expectations

As explained in Section VII.C.1.a, sellers have incentives to distort consumer demand toward an inefficient equilibrium. This inefficiency may also arise in a behavioral context.[260] By shrouding total prices through drip or partitioned pricing, a firm may bias its consumers' price expectations. For example, consumers may respond to driped prices by anchoring their beliefs on the base price and, thus, systematically underestimate the price of the good. This underestimation, whether by all consumers or merely by a suset of consumers, would lead to an outward shift in consumer demand. While this outward shift would look different than the demand distortion in Figure 1, it would lead to a similiarly inefficient equilibrium in which the good is overconsumed and society suffers a deadweight loss.

There are several studies that show how consumer behavior changes as a result of drip pricing. One study found that when optional surcharges are dripped, individuals are more likely to select a more expensive option (after including surcharges) than what they would have chosen under upfront pricing.[261] Even when the participants became aware of the additional fees, they were reluctant to restart the purchase process because they perceived high search costs and inaccurately assumed that all companies charge the same fees. A different economics paper conducted an experiment and found that consumers encountering drip pricing are more likely to make purchasing mistakes if they are uncertain about the extent of the drip pricing.[262]

[257] Although consumers in this model would prefer upfront pricing, it is unlikely that any individual firm in a market with shrouded prices could increase its market share by providing upfront total prices. Under the expectation of shrouded prices, consumers may inadvertently interpret such a firm's upfront prices as higher base prices, leading the firm to lose rather than gain business. In this way, shrouded prices create a prisoners' dilemma in the market that cannot be undone through competition.

[258] For expositional simplicity, Figure 1 does not include the shift to the supply curve resulting from firms' increased market power. This shift in supply would likely lead to similar shifts in the market equilibrium: higher prices, a transfer of surplus from consumers to producers, and a deadweight loss to society.

[259] This phenomenon has been observed, for example, in the live-event ticketing industry. *See* Blake et al., *supra* n. 153.

[260] David Laibson, Harvard U., Drip pricing: A Behavioral Economics Perspective, Address at the F.T.C. (May 21, 2012), *https://www.ftc.gov/sites/default/files/documents/public__events/economics-drip-pricing/dlaibson.pdf*.

[261] Shelle Santana et al., *Consumer Reactions to Drip Pricing,* 39 Mktg. Sci. 1, 188–210 (2020), *https://doi.org/10.1287/mksc.2019.1207*.

[262] Alexander Rasch et al., *Drip Pricing and its Regulation: Experimental Evidence,* 176 J. Econ. Behav. & Org., 353–70 (2020), *https://doi.org/10.1016/j.jebo.2020.04.007*.

Another prominent study looked at how consumers respond to the salience of sales tax on goods, which affects the full price of a product.[263] In this study, when the grocery store displayed the full price of each item on shelves as part of a field experiment, people purchased fewer products, relative to the control scenario in which sales tax was added at checkout, despite knowing that the final price being charged had not changed. In 2014, StubHub conducted an experiment in which some consumers were presented total prices inclusive of fees up front while other consumers were presented a base price up front with fees revealed at checkout. An analysis of this experiment revealed that presenting consumers with total prices up front reduced both the quantity and quality of tickets purchased relative to presenting consumers with dripped prices.[264]

2. Economic Effects of the Proposed Rule

The model of incomplete price information, described in Section VII.C.1.a, provides a framework for assessing the potential costs, benefits, and transfers associated with the proposed rule. The proposed rule would result in positive net benefits if it increases the ease with which consumers can learn total prices and if the proposed rule improves consumer comprehension of fees as they relate to total price, facilitates comparison shopping, reduces search costs, or otherwise allows consumers to make choices that increase net welfare.

Under the current regime, if a seller in a given industry utilizes hidden fees, that seller may acquire a larger market share by advertising lower initial prices than other sellers not using hidden fees. Absent a Federal rule, competitive forces will drive other firms within an industry to also use hidden fees. These firms may have to accept a lower market share if they don't use hidden fees, even though their total prices are similar to their competitors. Thus, one potential outcome of the proposed rule is that firms that currently do not use drip pricing (in an industry where drip pricing is common) will no longer face the competitive pressure to employ hidden fees and may experience higher revenue if consumers can more easily compare prices across firms.

The proposed rule would also generate societal costs as firms would have to adjust how they convey prices to consumers. The proposed rule could increase economic efficiency if it improves consumers' price calculations and the resulting reduction in deadweight loss exceeds the cost to firms of providing more transparent pricing. It may also facilitate price comparisons by consumers, increase competition among sellers, and put downward pressure on prices. Due to a lack of data, it is difficult to fully quantify all the potential effects of the proposed rule on the full economy. Where there may be impacts that we are unable to quantify, we provide a qualitative description.

c. General Benefits of Proposed Rule

Consumers would benefit from the proposed rule in several ways. In addition to reductions in search costs and deadweight loss, which are described in greater detail in Section VII.C.1, there may be unquantified benefits from § 464.3 of the proposed rule, which in part prohibits misrepresentation regarding the nature and purpose of any amount a consumer may pay that is excluded from the Total Price. Another potential unquantified benefit to consumers from the proposed rule is reduced frustration and consumer stress that is often associated with surprise fees that distort the purchasing process.

The proposed rule may also provide a benefit to firms in the form of harmonized, nation-wide compliance requirements. In the absence of the proposed rule, individual States may pursue enforcement actions against firms using drip pricing or enact their own drip pricing prohibitions.[265] Such regulations could vary from State to State, and firm would incur greater costs to ensure simultaneous compliance with this patchwork of regulations. A single rule at the Federal level would reduce the need for regulations at the State level and provide a simpler regulatory framework for firms. The Commission solicits comments on whether there are any additional benefits of the proposed rule that are not currently explored in this analysis and any data that may support estimating those benefits.

(1) Reductions in Search Costs

Consumers may save time searching for total price on goods and services as a result of the proposed rule. In a well-functioning market, consumers find it beneficial to spend time comparison shopping for low prices. When mandatory fees are obscured, however, consumers incur longer search times to discover full prices and make informed purchasing decisions. The purchase process for a given transaction takes longer than it would otherwise, as a consumer learns the full price at the end of the process and may need to re-assess whether they wish to purchase at a higher price than originally expected or look for other options. The proposed rule would eliminate the need for additional, inefficient amounts of time to determine the total price from sellers who do not provide the total price up front. At this time, we quantify the reduction in search costs in the live-event ticketing and short-term lodging industries. We do not quantify the benefits of the reductions in search costs in other industries because we lack the data to quantify such benefits, but we acknowledge that it is a positive benefit to the proposed rule.

(2) Reductions in Deadweight Loss

As discussed in Section VII.C.1.a, consumers' incomplete price information may distort consumer demand. This distortion may shift a market to an inefficient equilibrium and generate deadweight loss, which results from consumers purchasing higher quantities of the good than they would if fully informed. Under the proposed rule, consumers would learn the total price up front. Thus, consumers' demand distortion would likely be mitigated, and some fraction of the welfare-reducing transactions would be prevented. In other words, resources supporting overconsumption become available for better societal use, and the deadweight loss is reduced or eliminated. The provision of full pricing information may also reduce consumers' mistake purchases with respect to product quality. Drip pricing might lead consumers to purchase goods of inefficiently high quality; the proposed rule may allow consumers to choose efficient levels of quality. In addition, the requirement to disclose the refundability of any fees not included in the total price may also reduce the quantity of consumers' mistake purchases. Absent the proposed rule, if businesses do not disclose that certain charges are not refundable, consumers might make purchases assuming that they are refundable. Thus, the proposed rule may result in consumers purchasing closer to the efficient quantity of goods. We do not quantify the reduction in deadweight loss, but we acknowledge that it is a positive benefit to the proposed rule.

[263] Raj Chetty et al., *Salience and Taxation: Theory and Evidence,* 99 Am. Econ. Rev. 4, 1145–77 (2009).

[264] *See* Blake et al., *supra* n. 153.

[265] *See, e.g.,* enforcement by the State of Pennsylvania against Marriott International, discussed in Section VII.C.3.b(2).

d. Welfare Transfers

The Commission expects that prices are likely to adjust in response to the transparency facilitated by the proposed rule. These price adjustments serve to transfer welfare from one side of the market to the other; consumer welfare would increase, and producer profits would decrease by the same amount. Typically, transfers of welfare from one set of people in the economy to another are documented in a regulatory analysis, but do not change net social welfare.[266] While it is likely that the proposed rule may result in transfers of welfare, we do not attempt to estimate these transfers.

e. General Costs of Proposed Rule

Because the proposed rule is sector-neutral and economy-wide, all firms will be affected to some degree. Firms operating in the United States will likely do a basic regulatory review to determine how the proposed rule applies to them. Firms that are not already in compliance with the proposed rule may incur additional costs to re-optimize prices of goods and services. These firms may also incur costs to adjust how they display price information in order to disclose the full price whenever a price is quoted, and add required disclosures regarding refundability of fees not included in Total Price (*e.g.,* fees for optional goods and services). For example, firms may need to reprogram websites, reprint advertisements, or redesign menus to comply with the proposed rule.

In addition, there may be some costs related to unintended consequences of the proposed rule. For instance, consumers who are used to an existing pricing structure that separately discloses mandatory fees at the end of the purchase process may mistakenly make inefficient purchases while adjusting to the new regime of all-in total pricing. For example, consumers accustomed to dripped ticketing fees may initially under-consume when shopping for tickets with upfront all-in pricing. The societal cost of such inefficiencies would be temporary and decrease as consumers adjust to the all-in pricing required by the proposed rule.

As another example, while the proposed rule excludes government charges and shipping from the required disclosure of total price, the proposed rule requires any internal handling costs associated with packaging a good that were previously presented as fees at the end of the purchase process to be incorporated in the total price. Internal handling costs include costs not attributable to the amount sellers are charged by third party shipping services like UPS or USPS. Since shipping and handling charges are currently often combined into one fee, businesses may have to change how they account for handling costs and how they advertise shipping and handling costs in order to comply with this provision.

f. Comparison of Benefits and Costs

The total costs of the proposed rule are uncertain because it is unclear how, across a variety of industries, firms would adjust prices, change their price displays and disclosures, and upgrade their systems in response to the proposed rule. This section quantifies economy-wide compliance costs to the extent possible, while recognizing that we cannot quantify all costs. The degree to which the proposed rule generates benefits for all industries in the economy is unclear, due to a lack of reliable information on how these fees affect search and decision-making at the economy level and the way in which pricing and search costs vary across industries. As such, we are unable to quantify economy-wide benefits. Instead, we determine the break-even level of benefits the proposed rule must generate in order to outweigh the quantified costs we estimate and, thus, generate a net positive benefit to society.

As a preview, we conclude in Section VII.C.2.d.(2) that if the proposed rule results in a benefit of at least $6.65 per consumer per year over 10 years, then the benefits from reduced search time will exceed quantified compliance costs. It seems likely that consumers would experience search time savings of this amount.

(1) Quantified Costs

Section VII.C.3 provides more detailed quantitative analyses of costs for three specific industries about which we have more information regarding mandatory fees: live-event ticketing, short-term lodging, and restaurants. However, there are likely other industries that may need to change their current practices to comply with the proposed rule, if finalized. To determine compliance costs for the remainder of the economy, we assume that 90% of these firms already comply with the proposed rule and that the other 10% of these firms do not currently comply with the proposed rule.

The Commission quantifies the compliance costs utilizing assumptions on the number of hours required to check compliance with and, if necessary, come into compliance with the proposed rule. We expect that in response to the proposed rule, firms will initially determine whether and how the proposed rule applies to them given their current pricing and fee disclosure strategies. We assume firms whose current practices align with the proposed rule will incur one hour of lawyer time to confirm their compliance.[267]

We do not have data on the exact costs firms not presently compliant will incur to comply with the proposed rule. We acknowledge that some firms in some industries may have already developed the tools required to comply with the proposed rule because they operate in jurisdictions with similar rules, such as all-in pricing requirements.

Transitioning to compliance for these types of firms should be relatively straightforward. For other firms and in other industries, transitioning to compliance may require additional time and costs. To capture both the variation and uncertainty of costs across industries, we make a series of low-end and high-end assumptions on the number of hours required to comply with the proposed rule. For example, we assume that firms not presently compliant will employ a low end of 5 hours and a high end of 10 hours of lawyer time to determine what is necessary to comply with the proposed rule. While some firms may forgo formal legal advice, this range of lawyer time serves as a proxy for any costs associated with understanding the proposed rule and preparing to comply with it.

The proposed rule's prohibition on drip pricing may lead to shifts in consumer demand, and consequently, shifts in market equilibria. In response, firms transitioning away from drip pricing may need to determine new optimal prices and contracts. In addition, the proposed rule's requirement that internal handling fees must be separated from shipping fees and included in the total price may require firms to invest more resources to better monitor, measure, and adjust both the shipping cost and the total price to comply with this provision. We assume these price re-optimizations require

[266] *See* Off. Mgmt. & Budget, *supra* n. 251 (''A regulation that restricts the supply of a good, causing its price to rise, produces a transfer from buyers to sellers. The net reduction in the total surplus (consumer plus producer) is a real cost to society, but the transfer from buyers to sellers resulting from a higher price is not a real cost since the net reduction automatically accounts for the transfer from buyers to sellers.'').

[267] Note that one hour of lawyer time is a proxy for the average amount of time firms will need to check whether the proposed rule applies to them. For example, some small businesses may not employ an attorney, but may instead have a staff member review the rule.

firms to incur a one-time, upfront cost of data scientist time to perform this work. We assume firms not presently compliant will employ a low end of 40 hours and a high end of 80 hours of data scientist time.[268] Similar to the use of lawyer hours in estimating compliance costs, this range of data scientist time serves as a proxy for any costs associated with adjusting pricing strategies in response to the proposed rule.[269]

The Commission expects that the drip pricing employed by firms not presently compliant with the proposed rule is, in many cases, manifested in online sales. In such cases, firms will also need to adjust both advertised prices as well as purchase processes for online sales, and we assume these adjustments require firms to incur a one-time, upfront cost of web developer time. Firms may also need to add required disclosures regarding the refundability of any fees not included in the Total Price. We assume firms not presently compliant will employ a low end of 40 hours and a high end of 80 hours of web developer time to become compliant with the proposed rule.[270] Once firms become compliant with the proposed rule, any future changes to pricing displays or purchasing systems are not a direct consequence of the proposed rule. For brick-andmortar firms the conduct in-person sales of goods and services and do not currently comply with the propsed rule, updating the price presentation and purchase process may include printing new price displays, revising advertising campaigns, adding required disclosures, as well as updating websites. For such firms, this range of web developer times serves as a proxy for any costs associated with ensuring the firm is compliant with the proposed rule.

It may be the case that once the firm incurs the one-time transition costs, there are no additional costs. For a low-end estimate of costs, we assume annual costs are $0 because there are zero additional hours of labor. However, it may be the case that as firms transition into compliance with the proposed rule, firms need to reevaluate their pricing policies to ensure continued compliance by employing additional lawyer time on an annual basis. Because the proposed rule applies to the entire economy, it is difficult to know the exact annual compliance costs that firms may incur as the various industries adapt to the proposed rule. For the high-end cost estimate, we assume firms require an average of 10 hours of lawyer time for annual compliance checks. These potential annual compliance costs are proxied with lawyer time but may take other forms that are unknown at this time.

Table 2 presents the economy-wide compliance costs, as well as the sum of the industry-specific compliance costs described in more detail in Section VII.C.3. Since the proposed rule is sector-neutral and economy-wide, we begin with the total number of firms in the U.S. (6,140,612), subtract the number of firms in the live-event ticketing, short-term lodging, and restaurant industries, and then assume that 90% of the remaining firms are already in compliance with the proposed rule.[271] This assumption implies that while 5.1 million U.S. firms will only incur one hour of lawyer time to review and confirm compliance, over 500 thousand firms outside of the specific industries analyzed in Section VII.C.3 will incur additional expenses to comply with the proposed rule.

For firms not presently in compliance with the proposed rule, we express compliance costs as present values, and we estimate them by adding one-time costs with recurring annual costs, discounted at either 3% or 7%. We add to these costs the regulatory familiarization costs for firms in the remainder of the economy already compliant with the proposed rule as well as the present value of compliance costs for the three industries discussed in Section VII.C.3 to arrive at the total present value of compliance costs for the economy as a whole. Table 3 presents the per-firm annualized compliance costs for the economy as a whole, separated by firms already in compliance, which incur a one-time compliance check, and firms not presently in compliance, which incur both one-time and recurring costs.

The cost of employee time is monetized using wages obtained from the Bureau of Labor Statistics May 2022 National Occupational Employment and Wage Estimates.[272] This assumption is valid if hours spent in compliance activities would otherwise be spent in other productive work-related activities, the social value of which is summarized by the employee's wage.[273] To the extent that these activities can be accomplished using time during which employees would otherwise be idle in the absense of a rule, our estimates will overstate the welfare costs of the propsed rule. For the short-term lodging and restaurant industries, we use the industry specific wages associated with the North American Industry Classification System (''NAICS'') codes for those industries:

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[268] While there may be some firms that have already established the systems necessary to comply with the proposed rule, there may be other firms that will require a large number of hours to re-optimize prices. The assumed 40 and 80 hours represent averages over all firms affected by the proposed rule.

[269] Some industries may comprise a mix of firms that are presently compliant and not presently compliant with the proposed rule. It is possible that, within these mixed industries, presently compliant firms would also need to reoptimize prices in response to shifts in market equilibria. That is, the shift in an industry's equilibrium resulting from the proposed rule could be significant enough that all firms in the industry, compliant or not, would need to adjust prices. Firms regularly reoptimize prices in response to market shifts, but it is possible that this price adjustment would require already compliant firms to incur additional costs. We lack data to quantify this potential cost to firms. The Commission solicits comments and data to better understand this potential source of costs.

[270] Note that Consumer Rule II also uses an assumption of 80 hours of time to reprogram flight quotation websites. U.S. Dep't Transp., *Preliminary Regulatory Analysis: Enhancing Airline Passenger Protections II* (May 24, 2010), *https://www.regulations.gov/document/DOT-OST-2010-0140-0003* (''Consumer Rule II'').

[271] The number of firms is provided by the United States Census Bureau's Statistics of United States Businesses. U.S. Census Bureau, *2020 SUSB Annual Datasets by Establishment Industry* (Mar. 2023), *https://www.census.gov/data/datasets/2020/econ/susb/2020-susb.html*. The estimate of 6,140,612 covered firms may be overinclusive as it includes firms that would be exempted from the definition of Business as described in 464.1(b) of the proposed rule if the proposed Motor Vehicle Dealers Rule is finalized. When subtracting the number of firms in the specific industries, we use the low-end estimate of the number of firms in the live-event ticketing and short-term lodging industries, which results in a higher number of firms for the rest of the economy that may incur costs associated with the proposed rule.

[272] U.S. Bureau Lab. Stat., Occupational Employment and Wage Statistics, *May 2022 National Occupational Employment and Wage Estimates United States* (May 2022) (''OEWS National''), *https://www.bls.gov/oes/current/oes__nat.htm*. U.S. Bureau Lab. Stat., Occupational Employment and Wage Statistics, *Occupational Employment and Wages, May 2022: 15–2051 Data Scientists* (May 2022) (''OEWS Data Scientists''), *https://www.bls.gov/oes/current/oes152051.htm* (providing the hourly wages for data scientists); U.S. Bureau Lab. Stat., Occupational Employment and Wage Statistics, Occupational Employment and Wages, May 2022: 15–1254 Web Developers (May 2022) (''OEWS Web Developers''), *https://www.bls.gov/oes/current/oes151254.htm* (providing the hourly wages for web developers); U.S. Bureau Lab. Stat., Occupational Employment and Wage Statistics, *Occupational Employment and Wages, May 2022: 23–1011 Lawyers* (May 2022) (''OEWS Lawyers''), *https://www.bls.gov/oes/current/oes231011.htm* (providing the hourly wages for lawyers).

[273] This assumption would hold, for example, if both the product and labor markets in this industry were competitive.

Table 2 – Economy-Wide Compliance Costs

	Firms that Already Comply with Proposed Rule		Firms that Do Not Already Comply with Proposed Rule
Number of Firms			
Assumed Fraction of Firms in Compliance (Exclusive of Live-Event Ticketing, Short-Term Lodging, Restaurants)	90%		10%
Number of Firms Exclusive of Live-Event Ticketing, Short-Term Lodging, and Restaurants	5,060,244		562,249
Number of Firms Inclusive of Live-Event Ticketing, Short-Term Lodging, and Restaurants	5,322,434		818,178
Wages			
Hourly Wage Rate Data Scientist	$55.40		$55.40
Hourly Wage Rate Web Developer	$42.11		$42.11
Hourly Wage Lawyer to Review Compliance	$78.74		$78.74
One-time Hours for Regulatory Familiarization or Compliance		**Low-end Estimate**	**High-end Estimate**
Lawyer Hours	1	5	10
Purchase Process Adjustment Hours	0	40	80
Data Analyst Hours	0	40	80
Recurring (Annual) Hours for Compliance			
Lawyer Hours	0	0	10
One-Time Costs	$398,443,589	$2,414,354,719	$4,823,690,494
Recurring (Annual) Costs	$0	$0	$442,254,942
Total Present Value Costs (Annual + One-Time)			
Total @ 7% Discount Rate	$398,443,589	$2,414,354,719	$7,929,904,143
Total @ 3% Discount Rate	$398,443,589	$2,414,354,719	$8,596,214,857
Live-Event Ticketing, Short-Term Lodging, and Restaurants			
Total Present Value Costs (Annual + One Time) for Live-Event Ticketing, Short-Term Lodging, and Restaurants			
Total @ 7% Discount Rate	$47,785,835	$1,555,015,731	$3,692,879,269
Total @ 3% Discount Rate	$47,785,835	$1,555,015,731	$4,065,459,392
Grand Total (All Firms)			
Total @ 7% Discount Rate		$4,415,599,874	$12,069,012,836
Total @ 3% Discount Rate		$4,415,599,874	$13,107,903,673

	Firms that Already Comply with Proposed Rule	Firms that Do Not Already Comply with Proposed Rule	
Number of Firms			
Assumed Fraction of Firms in Compliance (Exclusive of Live-Event Ticketing, Short-Term Lodging, Restaurants)	90%		10%
Number of Firms Exclusive of Live-Event Ticketing, Short-Term Lodging, and Restaurants	5,060,244		562,249
Number of Firms Inclusive of Live-Event Ticketing, Short-Term Lodging, and Restaurants	5,322,434		818,178
Wages			
Hourly Wage Rate Data Scientist	$55.40		$55.40
Hourly Wage Rate Web Developer	$42.11		$42.11
Hourly Wage Lawyer to Review Compliance	$78.74		$78.74
One-time Hours for Regulatory Familiarization or Compliance		**Low-end Estimate**	**High-end Estimate**
Lawyer Hours	1	5	10
Purchase Process Adjustment Hours	0	40	80
Data Analyst Hours	0	40	80
Recurring (Annual) Hours for Compliance			
Lawyer Hours	0	0	10
One-Time Costs	$398,443,589	$2,414,354,719	$4,823,690,494
Recurring (Annual) Costs	$0	$0	$442,254,942
Total Present Value Costs (Annual + One-Time)			
Total @ 7% Discount Rate	$398,443,589	$2,414,354,719	$7,929,904,143
Total @ 3% Discount Rate	$398,443,589	$2,414,354,719	$8,596,214,857
Live-Event Ticketing, Short-Term Lodging, and Restaurants			
Total Present Value Costs (Annual + One Time) for Live-Event Ticketing, Short-Term Lodging, and Restaurants			
Total @ 7% Discount Rate	$47,785,835	$1,547,358,869	$3,685,664,727
Total @ 3% Discount Rate	$47,785,835	$1,547,358,869	$4,058,244,850
Grand Total (All Firms)			
Total @ 7% Discount Rate		$4,407,943,013	$12,061,798,294
Total @ 3% Discount Rate		$4,407,943,013	$13,100,689,131

Note: The number of firms comes from the U.S. Census Bureau.[274] Hourly wages are from the U.S. Bureau of Labor Statistics.[275] All Firms includes the live-event ticketing, short-term lodging, and restaurant industries. For the independent values of these costs, please see the respective sections. This grand total also includes the one-time costs to firms that already comply with the proposed rule. We relied upon publicly available sources of data in our calculations. We recognize that there may be additional sources of data and we encourage comments that provide alternative sources of data where they are available.

Table 3 – Per Firm Annualized Costs

	Firms that Already Comply with Proposed Rule	Firms that Do Not Already Comply with Proposed Rule	
All Industries		**Low-End**	**High-End**
Annualized Compliance Cost Per Firm @ 7% Discount Rate		$691	$2,010
Annualized Compliance Cost Per Firm @ 3% Discount Rate		$569	$1,803
One-Time Cost (Firms Already in Compliance)	$78.74		

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(2) Break-Even Analysis of Economy-Wide Costs and Benefits

In order for the proposed rule to have a positive net benefit, its benefits must outweigh its costs. It is difficult to quantify the net social benefits of the proposed rule at the economy level because it depends on the extent to which drip pricing exists and the degree to which the rule would result in more informed decisions for consumers, which vary by industry. Since the Commission is unable to quantify the benefits of the proposed rule at the economy level, we instead calculate the break-even benefit per consumer based on the quantified costs presented in Section VII.C.2.d.(1). That is, we determine the minimum value the proposed rule would need to generate for the average consumer in order for the total benefit of the proposed rule to outweigh its quantified costs. This benefit may include reduced search costs (as described in the live-event ticketing and short-term lodging industry analysis), reduced deadweight loss, and reduced psychological distress from surprise fees. For this analysis, we consider costs in annualized terms—the average discounted cost of compliance per year over 10 years.[276] As such, we express the break-even benefit as an average benefit per consumer per year over 10 years.[277]

From Table 2, under the assumption that firms and consumers discount future years at 3%, we estimate that the proposed rule may result in costs as high as $13.1 billion over 10 years. Assuming a discount rate of 7% for future years, we estimate that the proposed rule may result in costs as high as $12.1 billion over 10 years. To determine the break-even benefit, we begin with the total present value of total costs and calculate the annualized total costs across all industries.[278] Next, we calculate what the break-even benefit would be per consumer, according to this forumla:

Per Consumer Annualized Benefits >= Annualized Quantified Compliance Costs/Population

Table 4 presents the results of this break-even analysis. According to the 2020 Census, there are 258,343,281 adults living in the United States. Thus, we divide the estimates of annualized costs by the number of U.S. adults to find the average consumer benefit per year for 10 years required to exceed quantified compliance costs. For example, if the proposed rule results in an average benefit to consumers that exceeds $6.65 per year over 10 years, then the proposed rule's benefits exceed its quantified economy-wide compliance costs under the high-end assumption and an assumed 7% discount rate.

Table 4 also provides the break-even benefit per consumer in terms of minutes saved as a result of the proposed rule. Given that the mean wage is $29.76 and consumers reportedly value time at 82% of their mean wage, an hour of saved search time is worth $24.40/hour.[279] If we divide the break-even dollar benefit per

[274] *See* U.S. Census Bureau, *supra* n. 271.

[275] U.S. Bureau Lab. Stat., Occupational Employment and Wage Statistics, *Occupational Employment and Wages, May 2022: 15–2051 Data Scientists* (May 2022) (''OEWS Data Scientists''), *https://www.bls.gov/oes/current/oes152051.htm* (providing the hourly wages for data scientists); U.S. Bureau Lab. Stat., Occupational Employment and Wage Statistics, *Occupational Employment and Wages, May 2022: 15–1254 Web Developers* (May 2022) (''OEWS Web Developers''), *https://www.bls.gov/oes/current/oes151254.htm* (providing the hourly wages for web developers); U.S. Bureau Lab. Stat., Occupational Employment and Wage Statistics, *Occupational Employment and Wages, May 2022: 23–1011 Lawyers* (May 2022) (''OEWS Lawyers''), *https://www.bls.gov/oes/current/oes231011.htm* (providing the hourly wages for lawyers).

[276] For the purposes of discounting and annualizing costs, we assume that firms incur their one-time costs immediately, at the beginning of year 1, while they incur the potential costs of annual compliance checks at the end of each year.

[277] Benefits to consumers, such as reductions in search costs, will accrue continuously over time. For simplicity, we assume for the break-even analysis that annualized benefits accrue all at once at the end of each year. As such, the break-even analysis may overestimate the level of benefits required to outweigh costs.

[278] Note that while total costs are higher with a smaller discount rate, annualized costs are higher with a larger discount rate due to the high upfront costs and relatively low recurring costs.

[279] *See* OEWS National, *supra* n. 272 (providing the mean hourly wage); Daniel S. Hamermesh, *What's to Know About Time Use?*, 30 J. Econ. Surv. 1, 198–203 (2015) (providing the value of consumer time).

consumer using the high-end assumptions and a discount rate of 7% ($6.65) by the value of saved search time ($24.40/hour) and convert to minutes, the break-even saved search time per consumer is 16.35 minutes. That is, if the proposed rule results in savings from reduced search time that exceed 16.35 minutes per consumer per year over 10 years, then the benefits from reduced search time will exceed quantified compliance costs.[280] It seems likely that consumers would experience search time savings of this amount.

Table 4 – Break-Even Analysis

Break-Even Benefit Per Consumer ($)	Low-End Estimate	High-End Estimate
Full Economy		
Total @ 7% Discount Rate	$2.43	$6.65
Total @ 3% Discount Rate	$2.00	$5.95
Break-Even Time Savings Per Consumer (Minutes)		
Full Economy		
Total @ 7% Discount Rate	5.98	16.35
Total @ 3% Discount Rate	4.93	14.62

[1] *See* OEWS National, *supra* n. 272 (providing the mean hourly wage); Daniel S. Hamermesh, *What's to Know About Time Use?,* 30 J. Econ. Surv. 1, 198–203 (2015) (providing the value of consumer time).
[1] Under the assumption of a 3% discount rate, the break-even time saved per consumer per year would be 14.62 minutes.

There are a few important caveats to this break-even analysis. It is possible that some industries may have more firms that are already in compliance with the rule than others. In the absence of data on compliance across industries, the analysis relies on the assumption that 10% of the firms in the remainder of the economy (excluding live-event ticketing, short-term lodging, and restaurants) are not already in compliance with the proposed rule. This assumption may overestimate the number of non-compliant firms in the remainder of the economy. In this case, this assumption leads to an overestimate of both costs and break-even benefits.

On the other hand, there may be many more firms not already in compliance with the proposed rule, in which case this assumption results in an underestimate of both costs and break-even benefits. Using the same break-even benefits approach with high-end cost assumptions but assuming that 50% of firms in the remainder of the economy are not already in compliance, the proposed rule would need to result in an annual benefit of $24.04, or 59.09 minutes saved, per consumer per year over 10 years in order to exceed quantified compliance costs.

This break-even analysis does not account for any unquantified costs. For instance, some potential unintended consequences are discussed in the restaurant industry section. The proposed rule applies to the entire economy, and we acknowledge that we cannot forecast all potential consequences and costs. On the other hand, there are additional unquantified benefits from the proposed rule beyond reducing search time such as the reduction in deadweight loss caused by consumers' incomplete price information. The proposed rule may also affect unintended consequences that are beneficial. If the benefits from reduced deadweight loss, reduced search time, and beneficial unintended consequences outweigh the costs from compliance and harmful unintended consequences, then the proposed rule results in positive net social benefits.

Finally, a break-even analysis cannot reveal whether the net benefits from the proposed rule will be positive in some industries and negative in others.

1. Welfare Effects in Specific Industries

Although the proposed rule would apply to nearly all industries and sectors under the jurisdiction of the Commission, it is difficult to quantify benefits and costs economy-wide beyond the break-even analysis presented in Section VII.C.2.d.(2). However, there are some industries where drip pricing is commonplace and there may be better data available for estimation of the benefits and costs of the proposed rule.

This section describes the potential benefits and costs of the proposed rule on two specific industries that have been highlighted as being severely impacted by these undisclosed mandatory fees: the live-event ticketing industry and the short-term lodging industry. It also discusses the potential costs and benefits of the proposed rule in the restaurant industry, where new types of mandatory fees are emerging. The Commission provides quantitative estimates where possible for these industries and describe benefits and costs that we can only assess qualitatively.

a. Live-Event Ticketing Industry

This section provides analysis of the quantified benefits and costs of the proposed rule for the live-event ticketing industry. As discussed in Section VII.C.1, there are some benefits and costs that are unquantified, such as reductions in deadweight loss. Using

[280] Under the assumption of a 3% discount rate, the break-even time saved per consumer per year would be 14.62 minutes.

various assumptions, the quantified benefits and costs imply that the rule will have a positive net benefit.

The live-event ticketing industry is often used as an example where consumers are surprised by mandatory fees at the end of the purchase process.[281] Online event ticket sales were reported to be $8.1 billion in 2022.[282] Live events include music concerts (30.3%), sporting events (33%), and dance, opera, and theater productions (12.4%).[283] For many consumers, there are no close substitutes for the specific product, a live-event ticket, that they wish to purchase. Thus, when consumers are presented with surprise mandatory fees, the consumer either pays the full price including the fee, spends time searching for a new option such as a different seat, or foregoes the purchase entirely.

The live-event ticketing industry is unique relative to other industries because there is a large and robust secondary market. A given ticket to an event may be sold in the primary market, and then resold multiple times in the secondary market. It is difficult to fully quantify how many live-event ticket purchases are made in the US, how many involve mandatory fees, and what the typical size of the fee is. Anecdotally, it appears that most live-event ticket sellers include some kind of fee, although the size of the fee varies across sellers. In a non-generalizable sample, the GAO found live-event ticketing fees in primary and secondary ticket markets averaged 27% and 31%, respectively, of the ticket's price.[284]

In response to the White House calling for disclosure of hidden fees, some ticket sellers have voluntarily pledged to show ''all-in prices'' when the consumer begins the purchase process.[285] However, these voluntary pledges were announced after the Advance notice of proposed rulemaking for the proposed rule and may be in response to proposed national legislation.[286] Absent the proposed rule, market forces would likely return to the equilibrium of hidden mandatory fees. In fact, the National Association of Ticket Brokers (''NATB'') and StubHub submitted comments in support of the proposed rule requiring all-in pricing, but commented that the rule will only be effective if the rule is applied to all ticket sellers and rigorously enforced.[287] If any seller utilizes hidden fees, they may get a larger market share by advertising lower initial prices. Absent a Federal rule applying to all sellers, competitive forces might drive ticket sellers to return to the use of hidden fees. Thus, when quantifying the benefits and costs, we quantify relative to the baseline equilibrium where sellers do not disclose the Total Price up front.

(1) Live-Event Ticketing: Estimated Benefits of Proposed Rule

(a) Consumer Time Savings When Shopping for Live-Event Tickets

The proposed rule would require disclosures of the Total Price inclusive of all mandatory charges that a consumer must pay in order to make full use of the good or service. Required disclosure of the relevant prices and prohibitions on misrepresentations save consumers time when shopping for a live-event ticket by requiring the provision of salient, material information early in the process and eliminating time spent pursuing ticket offers priced above the consumer's reservation price.

The Commission assumes that, as a result of the proposed rulemaking provisions prohibiting misrepresentations and requiring price transparency, the total time spent by a consumer conducting the transaction will decrease, because some consumers will reduce the number of ticket listings they view prior to making a ticket purchase. For example, Blake *et al.* (2021) examine an experiment on StubHub where fees are presented up front to some consumers and at the backend of the purchase to others.[288] They find that the fraction of consumers who only view one listing is 74% when fees are presented at the end of the transaction versus 83% when fees are presented up front. Using the distribution of listings viewed by consumers reported in Blake et al. (2021), we calculate that the reductio in the average number of listings viewed from showing fees up front is 0.1525 listings.

The amount of time the average consumer spends viewing a listing for a live event is uncertain. However, many ticket sellers utilize a ''countdown clock'' where the selected tickets in the consumer's shopping cart expire and are returned to the marketplace. These countdown clocks range from 5 to 10 minutes per ticket transaction.[289] Multiplying the assumed length of a ticket transaction of 5 or 10 minutes by the estimated reduction in viewed listings from Blake et al. (2021) results in a search time savings of 0.7625 to 1.525 minutes per consumer transaction.[290]

Next, we estimate the number of consumer purchases of live-event tickets. Live Nation (which okwns Ticketmaster) reported selling 281 million fee-bearing tickets in the primary and secondary markets using the Ticketmaster system in its 2022 10–K SEC filing.[291] However, this is the total for combined North America and International ticket sales. Live Nation also reports that roughly ⅔ of concert events were in North America, so we apply that proportion to ticket sales and assume that Ticketmaster sold almost 188 million tickets in North America. To estimate the number of tickets sold in the U.S., we adjust the number of tickets by the share of North American GDP attributable to the U.S, which results in an estimated 165 million tickets sold in the primary and secondary market by Ticketmaster in the U.S.[292]

To find the total number of tickets sold in the U.S., we extrapolate from the Ticketmaster ticket sales using the

[281] *E.g.,* The White House, *How Junk Fees Distort Competition, supra* n. 254.

[282] Michal Dalal, *Online Event Ticket Sales in the US,* IBISWorld (May 2023) (''Ticket Sales Industry Report'').

[283] *Id.*

[284] U.S. Gov't Accountability Off., *Event Ticket Sales: Market Characteristics and Consumer Protection Issues,* (April 12 2018), *https://www.gao.gov/products/gao-18-347.*

[285] The White House, *President Biden Recognizes Actions by Private Sector Ticketing and Travel Companies to Eliminate Hidden Junk Fees and Provide Millions of Customers with Transparent Pricing* (Jun. 15, 2023) *https://www.whitehouse.gov/briefing-room/statements-releases/2023/06/15/president-biden-recognizes-actions-by-private-sector-ticketing-and-travel-companies-to-eliminate-hidden-junk-fees-and-provide-millions-of-customers-with-transparent-pricing/.* Some ticket sellers, such as *TickPick.com,* have never used hidden fees.

[286] *See, e.g.,* U.S. Senate Comm. Com. Science Trans., *The TICKET Act, https://www.commerce.senate.gov/services/files/071401A3-D280-414C-AEDB-A9B57F276067.*

[287] FTC–2022–0069–6089.

[288] Blake et al., *supra* n. 153.

[289] Ticketmaster reports that the amount of time varies by event but references a 5-minute purchasing period. Ticketmaster, *Why does Ticketmaster enforce a time limit when making purchases online?, https://help.ticketmasterksa.com/hc/en-us/articles/360017497557-Why-does-Ticketmaster-enforce-a-time-limit-when-making-purchases-online-.* Based on a small, non-representative sample of ticket purchase attempts, StubHub appears to generally offer 10 minutes to complete a ticket purchase.

[290] *See also* Consumer Rule II., *supra* n. 270. The Preliminary Regulatory Impact Analysis for Consumer Rule II assumed consumers would save 5 minutes of search and estimation time if all websites provided full-fare information up front.

[291] U.S. Sec. & Exchange Comm'n, Form 10-K, Live Nation Entertainment, Inc. (Feb. 23, 2023) (''Live Nation 10-K'') *https://www.sec.gov/ix?doc=/Archives/edgar/data/1335258/000133525823000014/lyv-20221231.htm.*

[292] U.S. GDP in 2022 was estimated to be $25.46 trillion, GDP in Mexico was estimated to be $1.41 trillion, and Canadian GDP was estimated to be $2.14 trillion in 2022. We adjust North American tickets by 88% to estimate the number of tickets sold in the United States.

market share of Ticketmaster. Our main uncertainty is in Ticketmaster's market share. In 2010, the DOJ approved the merger between Ticketmaster and Live Nation, and reported that Ticketmaster had maintained a market share of over 80% for the previous 15 years.[293] If we assume that Ticketmaster still has an 80% share of the ticket market (which includes both the primary and secondary ticket markets), we can extrapolate an estimate of the total number of tickets sold in the U.S. by dividing Ticketmaster ticket sales in the U.S. by 80%.[294] This provides a low-end estimate of the number of tickets sold in the U.S. of 206 million tickets.

However, Ticketmaster did not begin selling in the secondary market until after the merger with Live Nation. Based on publicly available information, we are uncertain of Ticketmaster's market share in the secondary market for tickets. If Ticketmaster does not have 80% of the ticket market (both primary and secondary), the number of tickets sold in the U.S. exceeds the low-end estimate of 206 million tickets. To generate a high-end estimate of the total number of tickets sold in the U.S., we use the reported revenue for the full online ticket sales industry provided by the private research firm IBISWorld and calculate Ticketmaster's revenue share of the industry.[295] IBISWorld reports the online ticket sales industry, including both primary ticket sellers and ticket resellers, earned $8.1 billion in revenue in 2022. The Live Nation 10–K filing reports ticketing revenue of $2.2 billion in 2022, which suggests that Ticketmaster has a 27% revenue share of the online ticketing industry.[296] We extrapolate a high-end estimate of the total number of tickets sold in the U.S. by dividing Ticketmaster ticket sales in the U.S. by 27%, which results in an estimate of 612 million tickets.

Lastly, the reduction in search time of 0.7625 to 1.525 minutes is per consumer purchase, not per ticket purchase. We assume that the average consumer purchase is either 1.5 or 3 tickets.[297]

[293] *See,* U.S. Dep't of Justice, *The TicketMaster/Live Nation Merger Review And Consent Decree In Perspective* (Mar. 18, 2010), *https://www.justice.gov/atr/speech/ticketmasterlive-nation-merger-review-and-consent-decree-in-perspective.*

[294] Note that the Live Nation 10-K filing does not separate out tickets sold by Ticketmaster in the primary versus secondary market. The 80% market share of Ticketmaster reported by the Department of Justice was only in the primary market; the secondary market includes StubHub, VividSeats, TickPick.com, Ace Ticket, Alliance Tickets, Coast to Coast Tickets, and others. Because we do not have information on the proportion of Ticketmaster tickets sold in the secondary market and market share of Ticketmaster in the secondary market, the estimated number of tickets sold in the U.S. is under-estimated. This also implies that the benefits of the proposed rule may be under-estimated under this assumption, because we are under-counting the number of tickets sold currently with hidden fees.

[295] Ticket Sales Industry Report, *supra* n. 282.

[296] Note that assuming Ticketmaster's market share is equivalent to its revenue share (of the primary and secondary market) assumes that the average price of a ticket sold by Ticketmaster is the same as (or lower than) the average price of a ticket sold by the rest of the industry. If, however, the average price of a ticket sold by Ticketmaster is higher than average prices in the rest of the ticket selling industry, then Ticketmaster's revenue share is higher than its ticket share, and this extrapolation understates the total number of tickets sold in the U.S.

[297] The Commission does not currently have information on the average number of tickets purchased in a transaction. There is reason to believe the average would be greater than 1, because most venues limit the number of tickets that can be purchased in a given transaction. The limit is dependent on the event. Ticketmaster, *Why is there a ticket limit?, https://help.ticketmaster.com/hc/en-us/articles/9781245025937-Why-is-there-a-ticket-limit-#:~:text=Event%20organizers%20can%20choose%20to,or%20exceed%20published%20ticket%20limits.*

When multiplied by the number of transactions per year, the reduction in minutes spent viewing ticket listings will generate a total time savings of 875 thousand to 10.4 million hours per year. According to the Bureau of Labor Statistics Occupational Employment Statistics, the average hourly wage of U.S. workers in 2022 was $29.76,[298] and recent research suggests that individuals living in the U.S. value their non-work time at 82% of average hourly earnings.[299]

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Table 5 – Live-Event Ticketing: Estimated Benefits of Time Savings for Completed Transactions

		Low-End Benefit Estimate	High-End Benefit Estimate
Completed Transactions			
Minutes Viewing Live-Event Ticket Listing		5	10
Reduction in Average Number of Listings Viewed		0.1525	0.1525
Minutes Saved per Transaction		0.7625	1.525
Number of Tickets Sold in the United States		206,481,486	611,796,995
Average Number of Tickets in a Purchase		3	1.5
Number of Consumer Purchases		68,827,162	407,864,663
Hours Saved Per Year		874,679	10,366,560
Value of 1 hour of non-work time		$24.40	
Total $ Saved per year		$21,344,955	$252,977,242
Abandoned Transactions		***Unquantified***	***Unquantified***
Reductions in Deadweight Loss		***Unquantified***	***Unquantified***
Total Quantified Benefits (10 Years)	**7% discount rate**	$149,918,030	$1,776,806,284
Total Quantified Benefits (10 Years)	**3% discount rate**	$182,076,794	$2,157,947,183

Note: Benefits have been discounted to the present value at both 3% and 7% rates. The total tickets sold in the U.S. market is estimated using the reported number of tickets sold in the primary and secondary market in the 10-K SEC filing for Live Nation.[300] This number of tickets is then adjusted by the proportion of North American events, and then adjusted by the share of North American GDP attributable to the U.S. Wage rates are taken from the U.S. Bureau of Labor Statistics and adjusted by the consumer value of time reported in Hamermesh (2016).[301] We relied upon publicly available sources of data in our calculations. We recognize that there may be additional sources of data and we encourage comments that provide alternative sources of data where they are available.

(b) Additional Unquantified Benefits: Reductions in Deadweight Loss and Abandoned Transactions

Due to the incomplete price information problem described in Section VII.C.1, the proposed rule requiring ticket sellers to show the total price of tickets will likely result in a reduction of deadweight loss. When consumers are not able to observe total prices in the beginning of the purchase process, sellers are likely able to charge higher prices than could be supported under the proposed rule. Recent research suggests that when consumers are able to observe total prices for tickets up front—as is intended under the proposed rule—consumers purchase fewer and lower quality tickets and seller revenue is reduced.[302]

Another unquantified potential benefit to the proposed rule is a decrease in abandoned transactions. For example, in some cases, once the additional information about full price is revealed, consumers may fully abandon the transaction (*i.e.,* not purchase a ticket at all). Unfortunately, the Commission lacks adequate information to determine the quantity of such abandoned transactions and the amount of time spent pursuing them. As a result, this benefit is unquantified in the current analysis. The Commission solicits comment on the frequency of, and reasons for, abandoned transactions in the live-event ticket market in order to help quantify this benefit.

(2) Live-Event Ticketing: Estimated Costs of Proposed Rule

This section describes the potential costs of the proposed rule provisions and provide quantitative estimates where possible. For live-event ticketing, the cost of employee time is again monetized using wages obtained from the Bureau of Labor Statistics May 2022 National Occupational Employment and Wage Estimates.[303]

The costs to sellers from the proposed rule include a review of whether the rule applies, and, if the firm is not currently compliant with the proposed rule, one-time costs to comply with the

[298] OEWS National, *supra* n. 272.

[299] Hamermesh, *supra* n. 279 at 198–203.

[300] Live Nation 10–K, *supra* n. 291.

[301] OEWS National, *supra* n. 272; Hamermesh, *supra* n. 279.

[302] Blake et al., *supra* n. 153.

[303] OEWS National, *supra* n. 272.

rule and recurring annual costs to review and ensure on-going compliance. The Commission's preliminary analysis presents two cost scenarios corresponding to different assumptions on how many hours are required to comply with the rule and how many firms would be affected by the rule. We present these as a low-end cost scenario and a high-end cost scenario.

In order to estimate costs for the entire ticket-selling industry, we calculate the cost per seller and multiply by the number of sellers in the industry. However, there is some uncertainty about the number of live-event ticket sellers that would be affected by the rule. The NAICS classification system does not define a classification solely for ticket sellers, but there are two NAICS codes that might include ticket sellers. The GAO report used the NAICS code 561599, which is ''All Other Travel Arrangement and Reservation Services'' and includes 1,545 firms such as Tickets.com and VividSeats.[304] However, firms such as Ticketmaster and StubHub are classified as NAICS code 7113, which is ''Promoters of Performing Arts, Sports, and Similar Events'' and includes 7,624 firms.[305]

We recognize this number is potentially over-inclusive, as many firms within NAICS code 561599 and 7113 do not directly sell tickets or charge mandatory fees, and thus would not be impacted by the proposed rule. The private research firm IBISWorld estimates that the number of firms in the online ticket selling industry is 3,528 in 2022.[306] We use this number of firms as a low-end estimate of the number of firms.

Next, we estimate the number of hours a firm would spend complying with the proposed rule. As with assumptions regarding the number of firms, the following estimation utilizes a low-end and high-end value for the number of hours necessary for compliance. Because many ticket sellers operate in other countries that already have requirements similar to the proposed rule (Canada, Australia, EU), ticket sellers may have already incorporated the changes contemplated by the proposed rule to their operating practices. The websites may be already programmed, the lawyers already prepped about the rule, and the data scientists may have already determined the optimal pricing strategy; thus, sellers would have relatively low costs to transition to all-in pricing in the U.S.

In this low-end cost scenario, because live-event ticket sellers are already largely prepared to advertise total prices to consumers, the one-time, upfront cost of determining optimal prices and updating the purchase systems in terms of the number of required hours is negligible. We assume 5 hours of lawyer time to determine if the proposed rule applies, 40 hours of data scientist time to re-optimize the pricing strategy, and 40 hours of web developer time to edit and reprogram the website to display upfront prices. For the low-end cost scenario, we also assume there are no annual costs after the firm has incurred the one-time transition costs.

In the high-cost scenario, we assume that ticket sellers have not laid the groundwork for upfront pricing. We assume sellers require twice the number of hours to determine optimal prices, re-program the website to include the total price, and review and confirm compliance. Thus, the one-time costs include 10 hours of lawyer time, 80 hours of data scientist time, and 80 hours of web developer time. For the high-end cost estimate, we assume there are recurring annual costs of 10 hours of lawyer time per year to review and confirm compliance.

Table 6 presents the low-end and high-end estimates of costs for the live-event ticketing industry.

[304] NAICS code 561599 ''comprises establishments (except travel agencies, tour operators, and convention and visitors bureaus) primarily engaged in providing travel arrangement and reservation services.'' U.S. Census Bureau, North American Industry Classification System, 561599 All Other Travel Arrangement and Reservation Services, *https://www.census.gov/naics/?input=561599&year=2022&details=561599.*

[305] U.S. Census Bureau, *supra* n. 271.

[306] Ticket Sales Industry Report, *supra* n. 282.

Table 6 – Live-Event Ticketing: Estimated Costs of Compliance

		Low-End Cost Estimate	High-End Cost Estimate
Number of Live-Event Ticket Sellers		3,326	9,169
Hours to Determine Optimal Pricing and Contracts (Data Scientist Hours)		40	80
Hours to Update Purchasing Systems to Reflect Total Price (Website Developer Hours)		40	80
Hours to Determine how Rule Applies (Lawyer Hours)		5	10
Hourly Wage Rate Data Scientist		$55.40	$55.40
Hourly Wage Rate Website Developer		$42.11	$42.11
Hourly Wage Lawyer to Review Compliance		$78.74	$78.74
One-Time Fixed Cost to Include Fees Up Front		**$14,282,177**	**$78,745,206**
Hours for Reviewing Rule and Compliance (Annual)		0	10
Hourly Wage Lawyer to Review Compliance		$78.74	$78.74
Total Costs per year		**$0**	**$7,219,671**
Total Quantified Costs (10 Years) (One-Time + Annual)	**Present Value at 7% discount rate**	**$14,282,177**	**$129,453,151**
Total Quantified Costs (10 Years) (One-Time + Annual)	**Present Value at 3% discount rate**	**$14,282,177**	**$140,330,460**
Annualized Compliance Cost Per Firm	At 7% discount rate	$611.38	$2,010.17
Annualized Compliance Cost Per Firm	At 3% discount rate	$503.40	$1,794.20

Note: Costs have been discounted to the present at both 3% and 7% rates. The per firm costs for the live-event ticketing industry are the same as the per firm costs for the remaining firms in the economy (exclusive of live-event ticketing, short-term lodging, and restaurants) because we assume that 100% of firms in the live-event ticketing industry would incur additional costs to comply with the proposed rule and we use national wages for the live-event ticketing industry, as opposed to industry specific wages for short-term lodging and restaurants. The high-end estimate of firms is the sum of the number of firms in NAICS code 561599 and NAICS code 7113 reported by the U.S. Census Bureau.[307] We relied upon publicly available sources of data in our calculations. We recognize that there may be additional sources of data and we encourage comments that provide alternative sources of data where they are available.

(3) Live-Event Ticketing: Net Benefits

Next, in Table 7 we present the net benefits using the quantified benefits and costs discussed in Sections VII.C.3.a.(1) and VII.C.3.a.(2). To calculate the low end of the range for net benefits, we subtract the total quantified costs using the high-end cost assumptions from the total quantified benefits using the low-end benefit assumptions. For the high end of the range for net benefits, we subtract the low-end estimate of total quantified costs from the high-end estimate of total quantified benefits.

[307] U.S. Census Bureau, *supra* n. 271. Hourly wages are from the Bureau of Labor Statistics. OEWS Data Scientist, *supra* n. 272 (providing the hourly wages for data scientists); OEWS Web Developers, *supra* n. 272 (providing the hourly wages for web developers); and OEWS Lawyers, *supra* n. 272 (providing the hourly wages for lawyers).

Table 7 – Live-Event Ticketing: Estimated Net Benefits

		10-Year Period	
		Low-end Estimate	High-end Estimate
Total Quantified Benefits	7% discount rate	$149,918,030	$1,776,806,284
Total Quantified Benefits	3% discount rate	$182,076,794	$2,157,947,183
Total Quantified Costs (One-Time + Annual)	7% discount rate	$14,282,177	$129,453,151
Total Quantified Costs (One-Time + Annual)	3% discount rate	$14,282,177	$140,330,460
		(Low Benefits – High Cost)	(High Benefits – Low Cost)
Net Benefits (10 Years)	7% discount rate	$20,464,879	$1,762,524,107
Net Benefits (10 Years)	3% discount rate	$41,746,333	$2,143,665,007

Note: Benefits have been discounted to the present at both 3% and 7% rates.

Using various assumptions, the quantified benefits and costs imply that the rule will have a positive net benefit, even without accounting for the benefit of reducing deadweight loss.

(4) Live-Event Ticketing: Uncertainties

Our ability to precisely estimate benefits and costs is limited due to uncertainties in key parameters. The quantified benefits and costs for the live-event ticketing industry rely on a set of assumptions, based on the best available public information. When the data were unclear, we used sets of assumptions that would generate a range of low-end and high-end estimates. In Table 8 we summarize the key assumptions and how those assumptions may affect the resulting estimate of quantified benefits and costs.

Table 8 – Live-Event Ticketing: Summary of Key Uncertainties

Assumption or Uncertainty	Impact on Benefits
Assumptions to estimate total number of consumers in the United States purchasing live-event tickets in a given year:	
• Ticketmaster sales of tickets in North America are proportional to events in North America • Total tickets sold in U.S. is proportional to Ticketmaster share of ticket market revenue	• Adjusting total Ticketmaster tickets sold (North America + International) by proportion of events in North America may overestimate or underestimate tickets sold in North America. • Market share extrapolation based on revenue share may underestimate or overestimate the total number of tickets sold in the U.S.
• Number of tickets purchased in average consumer transaction (1.5 or 3 tickets per consumer)	• Adjusting total tickets sold by number of tickets in average transaction may overestimate or underestimate the total number of consumer transactions
Reduction in Listings Viewed	
• Blake et al. (2021) paper showing reduction of 0.16 listings viewed on StubHub with upfront pricing	• Assuming upfront pricing leads to 0.16 fewer listings viewed may underestimate total search time reduced, because it does not account for consumers using other purchasing systems (competitors)
Time to conduct ticket transaction:	
• Shopping cart clocks from Ticketmaster and StubHub sale pages (5 or 10 minutes)	• Assuming consumers use full timer clock may overestimate transaction time

Assumption or Uncertainty	Impact on Costs
Number of firms selling tickets: • Sum of firms in potential NAICS codes • IBIS World report on Online Ticket Sellers	• May overestimate total number of firms affected if a large proportion of firms in these NAICS codes are not subject to the proposed rule • May underestimate total costs if there are a meaningful number of firms selling tickets offline
Number of hours to comply with proposed rule: • Hours of lawyer time, data analyst time, and web developer time	• May overestimate costs per firm if many firms either already comply or have the systems in place to easily comply with proposed rule. Also may underestimate costs if compliance requires greater number of hours.

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The Commission is expressly soliciting comments regarding the uncertainties described in Table 8. Specifically, the Commission requests data that would allow for more refined estimation of the benefits of the proposed rule, including data on the total annual number of consumer live-event ticket purchases and the average search time saved for consumers as a result of the proposed rule. The Commission also requests data to refine the estimated cost of the proposed rule, including information on the number of live-event ticket sellers currently charging hidden mandatory fees, and the anticipated cost to firms from complying with the proposed rule.

b. Short-Term Lodging Industry

Businesses in the short-term lodging industry often charge a variety of mandatory add-on fees. These fees are typically either disclosed up front in fine print separately from the base price (a practice known as partitioned pricing) or revealed just before payment, after the consumer has clicked through multiple pages of a listing (known as drip pricing).[308] Hotels may impose these mandatory surcharges as ''resort fees or ''destination fees.'' Hotels often justify charging these fees as necessary to cover the costs of amenities that are not reflected in the base rate, such as Wi-Fi, pool, and gym access, towels, parking, and shuttle service. These fees are not optional and do not depend on the use of these amenities. Home share websites like Airbnb and VRBO label these mandatory fees as ''cleaning fees,'', ''service fees'', or ''host fees.''

Consumer behavior studies have shown that both partitioned pricing and drip pricing causes consumers to underestimate the total price of the product, even when all components of the price are disclosed up front.[309] As a result, disclosing mandatory surcharges separately from the room rate without first disclosing the total price is likely to harm consumers by increasing search costs and reducing consumer surplus.[310] These fees may reduce consumer surplus if consumers respond by booking a room that is more expensive than the room they would have chosen under upfront total pricing. It may also increase search costs if consumers spend more time looking at additional listings in search for a cheaper hotel.

AHLA states that 6% of U.S. hotels charge resort fees, which amounts to $2.93 billion dollars paid in resort fees annually by U.S. consumers.[311] This number underestimates how much U.S. consumers pay in mandatory fees because it does not include fees from finding accommodations on the home share market through websites like Airbnb and VRBO or fees incurred from booking at foreign hotels with U.S. facing websites. Resort fees in the U.S. average 11% of the per night cost of a room, and can be as high as 35%, especially at lower cost hotels.[312]

This section includes an estimate of the benefits and costs associated with the reduced search costs as a result of the proposed rule. Since there is an additional, unquantified benefit of reduced deadweight loss, which is discussed conceptually in Section VII.C.2.a, the net benefit estimated in the following analysis is conservative. The Commission finds that the quantified benefits and costs imply that the rule will have a positive net benefit, even without accounting for the unquantified benefit of reducing deadweight loss.

(1) Short-Term Lodging: Estimated Benefits of Proposed Rule

(a) Consumer Time Savings When Shopping for Hotels

As a result of the proposed rule, the Commission expects that the time

[308] Sometimes these fees are not disclosed altogether or are not disclosed until a customer has arrived at the lodging to check in.

[309] Howard A. Shelanski et al., *Economics at the FTC: Drug and PBM Mergers and Drip Pricing,* 41 Rev. Indus. Org., 303 319 (2012).

[310] See Sullivan, *supra* n. 153.

[311] FTC–2022–0069 6037 (AHLA); Bjorn Hanson, *U.S. Lodging Industry Fees and Surcharges Forecast to Increase to a New Record Level in 2018—$2.93 Billion, and Another Record Anticipated for 2019—the Newest Emerging Category is ''Resort Fees'' for Urban Luxury and Full Service Hotels* (Aug. 27, 2018), *https://bjornhansonhospitality.com/fees-%26-surcharges.*

[312] Sally French Sam Kemmis, *How to Avoid Hotel Resort Fees (and Which Brands Are the Worst)*, NerdWallet (Aug. 9, 2023), *https://www.nerdwallet.com/article/travel/hotel-resort-fees.*

consumers spend searching for short-term lodging will decrease because prices will be easier to compare within and across websites. Some consumers will reduce the number of short-term lodging listings they view prior to making a booking or spend less time understanding and assessing the full price.[313] In our analysis we make the conservative and simplifying assumption that the time spent viewing a listing remains the same, and that consumers reduce the average number of listings they view. Table 9 quantifies the benefits of such time savings and provides lower and upper-end estimates to account for uncertainty in the available statistics.

The Commission specifically focuses on the benefits that accrue to consumers who book rooms from within the United States on any US-facing website, which can include bookings at both domestic and foreign short-term lodgings. Short-term lodgings include both traditional hotels as well as rooms booked through home share websites like Airbnb and VRBO.[314] In this section, we outline how the benefits are calculated in Table 9 and the assumptions we make. The table reports a set of basic search statistics used in the calculation, the savings per year for consumers who book at U.S. short-terms lodgings, the savings per year for consumers who book at foreign short-term lodgings with US-facing websites, and the combined total savings for all U.S. consumers per year.

Although not all short-term lodgings charge resort fees, the lack of a unified standard of upfront pricing across listings makes comparing prices difficult and time consuming for consumers. Even within a single short-term lodging website, there is variation in whether listings have hidden fees. For example, Marriott's 32 hotel brands impose hidden fees for listings in some cities but not in others. Some listings, in very fine print under the listed price, note whether resort fees are included or excluded in the base price. Some listings do not say anything, requiring consumers to click through the listing to learn whether there are hidden fees at the end. Given that 6% of hotels impose drip pricing, and the average hotel shopper visits 17 travel websites before booking, consumers are likely to encounter at least one website that imposes drip pricing in their search for a hotel.[315] Even for consumers who complete their whole search and booking process without visiting any websites that impose hidden resort fees, the fact that there *could* be hidden fees creates uncertainty and my cause consumers to click through more listings than they otherwise would have to learn if the initial price is truly the final price. Therefore, we quantify the benefits for all U.S. consumers who book a room in a given year, regardless of whether they interacted with a website that imposed drip pricing.

(i) Search Statistics

The Commission uses two different studies to calculate lower and upper-end estimates for the average number of minutes it takes to view one listing. On the lower end, we use statistics on Airbnb user search behavior collected by Fradkin (2017) to calculate that consumers spend 9.48 minutes to view one listing.[316] On the upper end, we use a hotel search cost model developed by Chen and Yao (2016) to calculate the average search cost per listing.[317] Using this average search cost, we estimate that consumers spend 14.3 minutes viewing one listing. See Appendix A for calculation details for both estimates. Using the estimates from each study as lower and upper-end estimates ensures that we capture user search behavior on both home share websites like Airbnb and more traditional hotel websites.

To estimate the reduction in average listings viewed due to drip pricing, we use results on the average reduction in listings viewed under upfront pricing from an experiment in the ticketing industry.[318] The study finds that the average reduction in listings viewed under upfront pricing is 10.6% of the mean listings viewed under drip pricing. For the low-end estimate, we apply the same proportion to the mean listings viewed by Airbnb users in Fradkin (2017) (2.367 listings, proxied by number of contacts) and find a reduction of 0.25listings. On the upper end, we apply this to the mean listings viewed by hotel searchers in Chen and Yao (2016), 2.3 listings, and find a reduction of 0.24 listings.[319]

Multiplying this number by the minutes to view one listing results in 2.39 to 3.53 minutes saved per transaction. These estimates are likely conservative, given that they assume consumers only view one website before booking a room. One study suggests that consumers in fact visit an average of 17 websites before booking.[320] In addition, the average reduction in listings viewed may also underestimate benefits from eliminating drip pricing because it is

[313] The drip pricing literature suggests that because time to view one listing is lower under upfront pricing, there may also be a subset of consumers who view more listings because the cost of viewing an additional listing has decreased. Sullivan, *supra* n. 153. It is unclear how this affects total time spent searching. If the higher number of listings viewed is offset by the lower time it takes to view each listing, the total time spent searching will be lower under upfront pricing for this subset of consumers. If total time increases, it can be classified as ''good'' search time for this particular group of consumers because it results in consumers purchasing their preferred hotel room. Alternatively, another group of consumers could view fewer listings because upfront prices allow consumers to compare rooms more easily and select their preferred hotel room more quickly. Blake et al., *supra* n. 153. The total search time for these consumers will decrease. We focus on the latter group of consumers because the change in their search time represents a decrease in ''bad'' or unnecessary search caused by drip pricing.

[314] Airbnb currently includes a toggle for consumers to click to switch to viewing all listing prices up front. However, the default option is to view listings with drip pricing, and the toggle is not visible if a consumer starts their search from any Airbnb page other than the homepage. VRBO includes the total price including fees on the first page of search results in very fine print under the much larger base price. Neither Airbnb nor VRBO are currently in compliance with the proposed rule, which would require the total price to be the most prominent default upfront price.

[315] Chris Anderson et al., *The Billboard Effect: Still Alive and Well*, 17 Ctr. Hosp. Rpt. 11 (2017), *https://hdl.handle.net/1813/70982*. The Commission calculates the average number of websites visited by summing the average number of OTAs, Hotel Sites, TripAdvisor, and Other Meta websites visited 60 days prior to reserving a room.

[316] Andrey Fradkin, *Search, Matching, and the Role of Digital Marketplace Design in Enabling Trade: Evidence from Airbnb,* (MIT Initiative on the Digit. Econ., Working Paper, 2017). Using this average search cost, we estimate that consumers spend 14.3 minutes viewing one listing. See Appendix A for calculation details for both estimates. Using the estimates from each study as lower and upper-end estimates ensures that we capture user search behavior on both home share websites like Airbnb and more traditional hotel websites.

[317] Yuxin Chen Song Yao, *Sequential Search with Refinement: Model and Application with Click-Stream Data,* 63 Mgmt. Sci. 12, 4345 4365 (2017), *https://doi.org/10.1287/mnsc.2016.2557*.

[318] Blake et al., *supra* n. 153.

[319] Although we are basing our reduction in listings estimates on data that comes from the ticketing industry, our method results in the most conservative reduction of viewed listings compared to other methods. The most relevant study from the hotel search cost literature estimates that improvements in hotel rankings (which may be loosely comparable to removing drip pricing) reduces search costs by $11.50. *See* Raluca M. Ursu, The Power of Rankings: *Quantifying the Effect of Rankings on Online Consumer Search and Purchase Decisions,* 37 Mktg. Sci. 4, 507–684 (2018). Given our estimates of the time to view one listing (between 9.48 and 14.30 minutes), this suggests an average reduction of between 2.95 and 1.95 listings viewed, which is implausible given that various papers find the average number of listings viewed at baseline to be between 2 and 3. Thus, while some papers find substantially higher search costs than our method, this provides assurance that, if anything, our benefits estimates are likely conservative.

[320] *See* Anderson & Han, *supra* n. 315. It is unclear whether the relationship between websites viewed and time saved is linear, as consumers may save less time on the 15th website they view as they do on the first, so it is difficult to extrapolate from our estimates to the total time saved for consumers who view multiple websites. Therefore, to remain conservative in our estimate of benefits, we assume that consumers visit only one website.

more difficult to adapt to the wide variability of fees in the short-term lodging industry than it is in the ticketing industry, where listings have the same percentage fee. Short-term lodgings have different fees, and the number of lodgings with such fees will vary across markets.

According to the Bureau of Labor Statistics Occupational Employment Statistics,[321] the average hourly wage of U.S. workers in 2022 was $29.76, and recent research suggests that individuals living in the U.S. value their non-work time at 82% of average hourly earnings.[322] Thus, the value of non-work time for the average U.S. worker is estimated to be $24.40 per hour.

(ii) US Hotels and Home Share

Next, the Commission calculates the total savings per year for U.S. consumers who book at U.S. short-term lodgings, which includes both U.S. hotels and home shares. We find the total number of nights booked in the U.S.in 2022 by dividing the total revenue the U.S. short-term lodgings industry earned from rooms by the average daily rate (ADR).[323] The ADR is the average revenue per room-night booked in the U.S. The total number of nights booked in the U.S. in 2022 that would potentially be affected by this rule is about 1.29 billion.

Dividing the total number of nights booked by the average number of nights per booking gives 715 million total bookings.[324] About 91.8%, or 657 million, of these bookings are made by U.S. consumers.[325] Finally, we calculate the total savings for U.S. consumers per year by multiplying the number of bookings made by U.S. consumers by the minutes saved per transaction and the value of time for consumers. This results in total savings of about $637.2$941.6 million dollars.

(iii) Foreign Hotels and Home Share With US-Facing Websites

To estimate the number of foreign short-term lodging bookings made by U.S. consumers, the Commission uses the fact that 96% of all trips taken by U.S. consumers are domestic.[326] Multiplying the number of bookings made by U.S. consumers by ((1 − .96)/.96)) gives the number of foreign bookings, which is between 26.8 and 27.4 million. The total savings for this category amounts to about $26.5–$39.2 million dollars.

(iv) All Hotels and Home Share

Together, U.S. and foreign bookings amount to about 683.9 million bookings per year. This corresponds to between 27.2 and 40.2 million hours saved by U.S. consumers per year, and between $663.7 million and $980.9 million total savings per year. Table 9 presents the expected benefits of time savings over the next 10 years in present value.

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[321] OEWS National, *supra* n. 272.

[322] Hamermesh, *supra* n. 279 at 198–203.

[323] Revenue equals about 192.23 billion. Alexia Moreno Zambrano, *Hotels & Motels in the US,* IBISWorld (Jan. 2023) (''Hotels & Motels Industry Report''); Thi Le, Bed & Breakfast & Hostel Accommodations in the US, IBISWorld (Jan. 2023) (''Bed & Breakfast Industry Report''). The ADR is about $149. *STR: U.S. hotel ADR and RevPAR reached record highs in 2022,* STR (Jan. 20, 2023), *https://str.com/press-release/str-us-hotel-adr-and-revpar-reached-record-highs-2022.*

[324] Consumers book on average 1.8 nights per booking. Jordan Hollander, 75+ *Hospitality Statistics You Should Know (2023),* Hotel tech Report (Aug. 9, 2023).

[325] *How much do U.S. hotels depend on international guest stays?,* CRBE Econometric Advisors' Blog (Oct. 10, 2017), *https://www.cbre-ea.com/public-home/deconstructing-cre/2017/10/10/how-much-do-u.s.-hotels-depend-on-international-guest-stays#:~:text=We%20estimate%20that%208.2%25%20of%20all%20hotel%20guests,Miami%20at%2057.5%25%E2%80%94are%20highly%20dependent%20on%20international%20guests.*

[326] Adrian, *U.S. Travel & Tourism Statistics 2020–2021,* Tourism Academy Blog (Sep. 15, 2021), *https://blog.tourismacademy.org/us-tourism-travel-statistics-2020-2021.*

Table 9 - Short-Term Lodging: Estimated Benefits of Time Savings for Completed Transactions

		10-Year Period	
		Low-end Benefit Estimate	High-end Benefit Estimate
Search Statistics			
Minutes to View Listing		9.48	14.41
Reduction in Average Number of Listings Viewed		0.25	0.24
Minutes Saved Per Transaction		2.39	3.53
Value of 1 hour of non-work time		$24.40	$24.40
US Hotels and Home Share			
Total Number of Nights Booked		1,287,361,938	1,287,361,938
Average Nights Per Booking		2	2
Number of Bookings		715,201,077	715,201,077
Number of Bookings Made by US Consumers		656,554,589	656,554,589
Total Savings Per Year		**$637,176,656**	**$941,617,067**
Foreign Hotels and Home Share			
Number of Foreign Bookings Made by US Consumers		27,356,441	27,356,441
Total Savings Per Year		**$26,549,027**	**$39,234,044**
All Hotels and Home Share			
Total Bookings		683,911,030	683,911,030
Hours Saved by US Consumers Per Year		27,198,305	40,193,545
Total $ Saved Per Year		**$663,725,684**	**$980,851,112**
Abandoned Transactions		***Unquantified***	***Unquantified***
Reductions in Deadweight Loss		***Unquantified***	***Unquantified***
Total Quantified Benefits	**7% discount rate**	**$4,661,731,460**	**$6,889,087,761**
Total Quantified Benefits	**3% discount rate**	**$5,661,714,710**	**$8,366,858,934**

Note: Benefits over 10 years have been discounted to the present at both 3% and 7% rates. The value of time for hotel consumers is the mean hourly wage and adjusted by the consumer value of time reported in Hamermesh (2016).[327] Average nights per booking is from Hotel Tech Report.[328] We relied upon publicly available sources of data in our calculations. We recognize that there may be additional sources of data and we encourage comments that provide alternative sources of data where they are available.

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(b) Additional Unquantified Benefits: Reductions in Deadweight Loss and Abandoned Transactions

Due to the incomplete price information problem described in Section VII.C.1.a, the proposed rule requiring short-term lodgings to show the total price of rooms will likely result in a reduction of deadweight loss. When consumers are not able to observe total prices in the beginning of the booking process, sellers are likely able to charge higher prices than could be supported under the proposed rule. In addition, the requirement to disclose the refundability of any fees not included in the total price may also result in fewer mistake purchases stemming from incomplete information. Both the total price provision and the refundability disclosure provision may provide consumers with more complete pricing information necessary when making decisions about purchasing hotel rooms, thus reducing deadweight loss. At this time, we do not quantify the reduction in deadweight loss, but acknowledge that it is a positive benefit to the proposed rule.

In some cases, once the additional information about full price is revealed, consumers may fully abandon the transaction (*i.e.,* not book a room at all). Since the lodging cost is only a part of the overall cost of a trip, abandoning a transaction may be less likely for short-term lodging than other industries. In

[327] OEWS National, *supra* n. 272; Hamermesh, *supra* n. 279.

[328] Hotel Tech Report, *supra* n. 324.

that case, the unquantified benefit is likely to be small. The Commission lacks adequate information to determine the quantity of such abandoned transactions and the amount of time spent pursuing them. As a result, this benefit is unquantified in the current analysis. The Commission solicits comment on the frequency of and reasons for abandoned transactions in the short-term lodging industry in order to help quantify this benefit.

(2) Short-Term Lodging: Estimated Costs of Proposed Rule

This section describes the potential costs of the proposed rule provisions to the short-term lodging industry and provide quantitative estimates where possible. The costs to hotels from the proposed rule include a review of whether the rule applies, and, if the firm is not currently compliant with the proposed rule, one-time costs to comply with the rule and recurring annual costs to review and ensure on-going compliance. The cost of employee time is monetized using wages obtained from the Bureau of Labor Statistics National Industry-Specific Occupational Employment and Wage Estimates.[329] We use wages specific to the Traveler Accommodation industry (associated with NAICS code 721100). This industry includes traditional hotels and motels, casino hotels, bed and breakfast inns, and hostels. The Commission also quantifies the cost to individual home share hosts in the form of a one-time cost to adjust prices on home share listings.

Table 10 outlines the estimated costs of the proposed rule. Panel A shows the costs for U.S. hotels and home share hosts, Panel B shows costs for foreign hotels and home share hosts who post listings on U.S.-facing websites,[330] and Panel C shows the total combined costs for both groups.

(i) Panel A: U.S. Hotels and Home Share Hosts

There are 47,817 U.S. hotels associated with the ''Traveler Accommodation'' NAICS code. Of these firms, 6% impose resort fees, bringing the number of U.S. firms affected to 2,869 firms. We assume that this is inclusive of hotels that do not disclose the refundability of any optional add-on charges for additional goods and services. We remove one firm from the low-end estimate to account for the possibility that Marriott fully complies with its settlement with Pennsylvania and removes drip pricing absent the rule.[331]

Next, we estimate the number of hours a U.S. hotel would spend complying with the proposed rule. We assume all hotels that do not impose drip pricing and already disclose refundability of optional charges will spend one hour of lawyer time determining if the proposed rule applies to them. Hotels that are not presently compliant with the rule will incur additional costs to comply with the proposed rule. In the low-end estimate, we assume that because many hotels have websites facing other countries that already have similar requirements to the proposed rule (*e.g.,* Canada, Australia, EU), hotels may already have experience incorporating the necessary changes to their operating practices. In this scenario, hotels have relatively low costs to transition to all-in pricing for their US-facing websites. We assume 5 hours of lawyer time to determine how the proposed rule applies to the firm, 40 hours of data scientist time to re-optimize the pricing strategy, and 40 hours of web developer time to edit and reprogram the website to display upfront prices and make refundability disclosures.

In addition to hotels, the proposed rule would also affect individuals who participate in the home share market by listing their property for short term rentals on websites like Airbnb and VRBO. We estimate the total number of home share hosts in the U.S. by starting with the number of Airbnb hosts in the U.S. who post home share listings (not including larger bed and breakfast or hostel establishments) and extrapolating to the full U.S. market using Airbnb's market share in the U.S. [332] On the low-end, we assume that each host will take 1 hour to reprice each listing. Hosts have on average 1.18 listings, resulting in 1.18 hours of time per host.[333] The value of time comes from the same source as in Table 9.

In the high-cost scenario, we assume that hotels have not laid the groundwork for upfront pricing. We assume hotels require twice the number of hours to determine optimal prices, re-program the website to include the total price, and review and confirm compliance. Thus, the one-time costs for hotels include 10 hours of lawyer time, 80 hours of data scientist time, and 80 hours of web developer time. We assume home share hosts spend 3 hours repricing each listing, resulting in 3.5 hours per host.

In addition to the one-time costs, we also assume hotels incur annual costs of between 0 to 10 hours of lawyer time per year to review and confirm compliance with the proposed rule.[334] The total costs, which include both the one-time fixed cost and the annual costs for the next ten years in present value, range from $331 million and $1,001 million using a 7% discount rate, and between $331 million and $1,040 million using a 3% discount rate.

Note that all ranges of lawyer, data scientist, web developer, and home share host time serve as proxies for any costs associated with reviewing and ensuring compliance, adjusting pricing strategies, ensuring consumers are presented with total price, and re-evaluating home share listings respectively in response to the proposed rule.

(ii) Panel B: Foreign Hotels and Home Share Hosts

It is difficult to estimate costs for foreign hotels and home share hosts using the same method in Panel A

[329] U.S. Bureau Lab. Stat., Occupational Employment and Wage Statistics. *May 2022 National Industry-Specific Occupational Employment and Wage Estimates: NAICS 721100—Traveler Accommodation* (May 2022) (''OEWS Traveler Accommodation''), *https://www.bls.gov/oes/current/naics4_721100.htm.*

[330] We include costs to foreign hotels with U.S.-facing websites because complying with the proposed rule may cause them to pass through some costs to U.S. hotel shoppers. We are unable to quantify what percentage of costs will be passed through, so to be conservative we include all costs to foreign hotels and home share hosts.

[331] In 2021, Marriott agreed to a settlement with the Pennsylvania Attorney General in which they are required to include mandatory resort fees in the base rate on the first page of the booking process. So far, Marriott has missed multiple deadlines to make this change and today has only partially complied with this settlement, incorporating resort fees in the base price for some of its hotel brands, but not for others.

[332] *See* Clark Shultz, *Airbnb increases market share in latest read from M Science,* Seeking Alpha (June 6, 2022), *https://seekingalpha.com/news/3846023-airbnb-increases-market-share-in-latest-read-from-m-science* (providing Airbnb's market share). This results in 504,000 Airbnb home share hosts/.746 = 675,603 home share hosts in the US.

[333] The average number of listings per host is calculated from the total number of U.S. listings and the total number of U.S. hosts. Steve Deane, 2022 *Airbnb Statistics: Usage, Demographics, and Revenue Growth, the Stratos Blog* (Jan. 4, 2022), *https://www.stratosjets.com/blog/airbnb-statistics/#:~:text=People%20stay%20an%20average%20of%202.4%20times%20longer,highest%20number%20of%20any%20country%20in%20the%20world.* (providing the U.S. listings); Thibault Masson, *Airbnb host data: Who are Airbnb hosts? Why are individual hosts more important than professional ones?,* Rental Scale-Up (Dec. 6, 2020), *https://www.rentalscaleup.com/airbnb-host-data-who-are-airbnb-hosts-why-are-individual-hosts-more-important-than-professional-ones/#:~:text=About%2086%25%20of%20the%204%20million%20Airbnb%20hosts,roughly%20560%2C000%20operate%20in%20the%20United%20States%20%2814%25%29* (providing the number of U.S. hosts).

[334] Since home share hosts are not operating large, sophisticated firms and will likely not spend additional time ensuring compliance beyond year one, we assume home share hosts do not incur annual costs due to the rule.

because there are no reliable estimates for the number of foreign hotels and home share hosts, as well as the relevant international wage rate for lawyers, data scientists, and web developers. We instead estimate foreign costs by extrapolating from the U.S. costs estimated in Panel A. Since the U.S. hotel industry's global market share is about 14.5%,[335] the one-time and annual costs for foreign hotels can each be calculated by multiplying the one-time and annual costs for U.S. hotels by (1 − .145)/.145. U.S. facing website and thus will not be subject to the proposed rule. Therefore, the costs to foreign hotels may be an overestimate.

We use the percentage of Airbnb's U.S. revenue (46%) [336] to proxy for the U.S. home share market's global market share. Using this, we estimate the one-time cost for foreign home share hosts to be equal to the total one-time cost for U.S. home share hosts multiplied by (1 − 0.46)/0.46. The total one-time and annual foreign hotel and home-share costs for the next ten years in present value range from $103.3–$313.7 million using a 7% discount rate, and $103.3–$337.1 million using a 3% discount rate.

(iii) Panel C: All Hotels and Home Share Hosts (US + Foreign)

The total cost for all affected hotels and home share hosts over 10 years in present value is estimated to be between $136.5 and $413.8 million using a 7% discount rate and $136.5–$441.1 million using a 3% discount rate. This amounts to approximately between $406 to $1,232 annually per firm using a 7% discount rate and between $335 to $1,081 using a 3% discount rate.

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[335] The U.S. hotel industry's global market share in 2022 is calculated by adding the revenues reported in the IBISWorld Reports for ''Hotels and Motels in the US'', ''Casino Hotels in the US'', and ''Bed and Breakfast and Hostel Accommodations in the US'' and dividing it by the global revenue found in IBISWorld Global Hotels & Resorts Industry Report. Hotels & Motels Industry Report, *supra* n. 323; Bed & Breakfast Industry Report, *supra* n. 323; Demetrios Berdousis, *Casino Hotels in the US*, IBISWorld (Jan. 2023).

[336] U.S. Sec. & Exchange Comm'n, Form 10–K, Airbnb, Inc. (Feb. 17, 2023) *https://www.sec.gov/ix?doc=/Archives/edgar/data/1559720/000155972023000003/abnb-20221231.htm.*

Table 10 – Short-Term Lodging: Estimated Costs of Compliance

		Low-Cost Estimate	High-Cost Estimate
Panel A: US Hotels and Home Share Hosts			
A.1. US Hotels and Home Share Hosts: One Time Costs			
Number of US Hotels		47,817	47,817
Hotels That Impose Drip Pricing (6% of total)		2,868	2,869
Hours to Determine Whether Rule Applies (Non-drip Price Firms) (Lawyer Hours)		1	1
Hours to Determine Whether Rule Applies (Drip price firms) (Lawyer Hours)		5	10
Hours to Determine Optimal Pricing and Contracts (Data Scientist Hours)		40	80
Hours to Update Purchasing Systems to Reflect Total Price (Website Developer Hours)		40	80
Hourly Wage Rate - Lawyer		$91.57	$91.57
Hourly Wage Rate - Data Scientist		$39.07	$39.07
Hourly Wage Rate - Website Developer		$33.11	$33.11
Total One-Time Fixed Cost for Hotels		**$13,709,648**	**$23,309,917**
Home Share Hosts in the US		675,603	675,603
Hours to Determine Optimal Pricing for Home Share Listing		1.18	3.54
Value of Time		$24.40	$24.40
Total One-Time Fixed Cost for Home Share Hosts		**$19,430,966**	**$58,292,899**
Total One-time fixed cost for Hotels + Home Share Hosts		**$33,140,615**	**$81,602,816**
A.2. US Hotels and Home Share Hosts: Annual Costs			
Hours for Reviewing Rule and Compliance (Annual)		0	10
Hourly Wage - Lawyer		$91.57	$91.57
Total annual costs		**$0**	**$2,627,162**
A.3. US Hotels and Home Share Hosts: Total Costs			
Total Costs (One-Time + Annual)	**7% discount rate**	**$33,140,615**	**$100,054,900**
Total Costs (One-Time + Annual)	**3% discount rate**	**$33,140,615**	**$104,013,037**
Panel B: Foreign Hotels and Home Share Hosts			
B.1. Foreign Hotels and Home Share Hosts: One-Time Costs			
Total Cost for Foreign Hotels		$80,809,337	$137,396,592
Total Cost for Foreign Home Share Hosts		$22,522,937	$67,568,812
Total One-Time Fixed Costs		**$103,332,275**	**$204,965,404**
B.2. Foreign Hotels and Home Share Hosts: Annual costs			
Total Annual Costs		**$0**	**$15,485,385**
B.3. Foreign Hotels and Home Share Hosts: Total Costs			
Total Costs (One-Time + Annual)	**7% discount rate**	**$103,332,275**	**$313,728,271**
Total Costs (One-Time + Annual)	**3% discount rate**	**$103,332,275**	**$337,058,882**
Panel C: All Hotels and Home Share Hosts (US + Foreign)			
Total One-Time Fixed Costs		$136,472,889	$286,568,220
Total Annual Costs		$0	$18,112,547

Grand Total Costs (One-Time + Annual)	**7% discount rate**	**$136,472,889**	**$413,783,170**
Grand Total Costs (One-Time + Annual)	**3% discount rate**	**$136,472,889**	**$441,071,919**
Annualized Cost Per firm	**7% discount rate**	**$406.35**	**$1,232.06**
Annualized Cost Per firm	**3% discount rate**	**$334.58**	**$1,081.35**

Note: Costs over 10 years have been discounted to the present at both 3% and 7% rates. The number of U.S. hotels is from the U.S. Census Bureau.[337] The statistic that 6% of U.S. hotels impose drip pricing comes from an AHLA comment to the ANPR.[338] All hourly wages come from the U.S. Bureau of Labor Statistics.[339] The value of time for hotel consumers is the hourly wage rate adjusted by the consumer value of time.[340] The total cost for foreign hotels is calculated by extrapolating from the total cost for U.S. hotels using the U.S.'s global market share of the short-term lodging industry from IBISWorld Industry Reports.[341] The total cost for foreign home share hosts is calculated by extrapolating from the total cost for U.S. home share costs using Airbnb's U.S. revenue as a percentage of its total revenue, as reported in Airbnb's 2022 10-K Filing.[342] We relied upon publicly available sources of data in our calculations. We recognize that there may be additional sources of data and we encourage comments that provide alternative sources of data where they are available.

(3) Short-Term Lodging: Net Benefits

Table 11 presents the net benefits of the proposed rule in the short-term lodging industry using the quantified benefits and costs discussed in Sections VII.C.3.b.(1) and VII.C.3.b.(2). To calculate the low end of the range for net benefits, we subtract the total costs using the high-end cost assumptions from the total benefits using the low-end benefit assumptions. For the high end of the range for net benefits, we subtract the total costs using the low-end cost assumptions from the total benefits using the high-end benefit assumptions.

The quantified benefits and costs imply that the proposed rule will have a positive net benefit, even without accounting for the unquantified benefit of reducing deadweight loss.

Table 11 - Short-Term Lodging: Estimated Net Benefits

		Low-end Estimate	High-end Estimate
Total Benefits	**7% discount rate**	$4,661,731,460	$6,889,087,761
Total Benefits	**3% discount rate**	$5,661,714,710	$8,366,858,934
Total Costs (One-Time + Annual)	**7% discount rate**	$136,472,889	$413,783,170
Total Costs (One-Time + Annual)	**3% discount rate**	$136,472,889	$441,071,919
		(Low Benefits – High Cost)	**(High Benefits – Low Cost)**
Net Benefits	**7% discount rate**	$4,247,948,290	$6,752,614,872
Net Benefits	**3% discount rate**	$5,220,642,791	$8,230,386,045

Note: Benefits have been discounted to the present at both 3% and 7%.

[337] U.S. Census Bureau, supra n. 271.
[338] FTC–2022–0069–6037 (AHLA).
[339] OEWS Traveler Accommodation, *supra* n. 329.
[340] *See* OEWS National, *supra* n. 272 (providing the mean hourly wage); Hamermesh, *supra* n. 279 (providing the value of time).
[341] *See supra* n. 335 (describing the calculations).
[342] U.S. Sec. & Exchange Comm'n, Form 10–K, Airbnb, Inc. (Feb. 17, 2023).

(4) Short-Term Lodging: Uncertainties

The Commission's ability to precisely estimate benefits and costs is limited due to uncertainties in key parameters. The quantified benefits and costs for the short-term lodging industry rely on a set of assumptions based on the best available public information. When the data were unclear, we used sets of assumptions that would generate a range of low-end and high-end estimates. Table 12 summarizes the key assumptions and how they may affect the resulting estimate of quantified benefits and costs. When possible, we attempted to underestimate benefits and overestimate costs in order to estimate conservative net benefits.

Table 12 – Short-Term Lodging: Summary of Key Uncertainties

Assumption or Uncertainty in Benefits Calculation	**Impact on Benefits**
We assume that reduction in average listings viewed is proportional (as a percentage of the baseline mean) to the reduction in average tickets viewed in the Blake et al. (2021) StubHub study.	This likely underestimates benefits because short-term lodgings vary substantially both within and across locations in the magnitude of the resort fees they charge, unlike tickets on a ticketing platform. In addition, the hotel search cost literature finds search cost savings from improved hotel ranking (which may be comparable to removing drip pricing) that are very large and imply bigger reductions in average listings viewed.
We assume that because 96% of all trips taken by U.S. consumers are domestic, 96% of all rooms booked by U.S. consumers are located in the U.S.	Trips taken does not necessarily equal rooms booked, and it is likely that only some subset of trips taken by U.S. consumers also correspond to a room booking. If the true percentage of domestic bookings is greater than 96%, our estimate of the number of foreign hotel bookings will be too small. If it is less than 96%, our estimate of foreign hotel bookings will be too large.
We assume consumers only visit one travel website before booking a room.	If consumers visit more than one website before booking, the average reductions in listings viewed in response to this rule may be larger than our estimates, causing us to underestimate benefits.
Assumption or Uncertainty in Costs Calculation	**Impact on Costs**
6% of all firms impose drip pricing.	The AHLA stated in a comment that "only 6% of hotels nationwide charge a mandatory resort/destination/amenity fee." We assume that this means that 6% of firms impose drip pricing, and not 6% of all establishments (physical hotel buildings). If it is actually 6% of all establishments that impose drip pricing, then our estimate likely overestimates the number of firms that impose drip pricing, leading to inflated costs. For example, if all chain hotels impose drip pricing for at least one of their establishments and none or very few independent hotels do, the number of firms would be much smaller than 6% of all firms.
Number of hours to comply with proposed rule: Hours of lawyer time, data analyst time, and web developer time	May overestimate costs per firm if many firms either already comply or have the systems in place to easily comply with proposed rule. May underestimate costs if compliance requires greater number of hours.
Airbnb's market share in the U.S. home share industry is	If Airbnb's share of hosts is smaller than its market share, then the extrapolation to give the number of

the same as its share of total hosts in the US	home share hosts in the U.S. (and therefore their total costs) will be underestimated. It will be overestimated if the share of hosts is larger than the market share.
Hours each Airbnb host spends repricing listings due to proposed rule	May overestimate costs if hosts spend less time repricing, or do not reprice at all. May underestimate costs if hosts spend more time.
We assume that the U.S. hotel industry's global market share by revenue is the same as its global market share by cost.	May underestimate costs for foreign hotels if true global cost share is smaller. May overestimate costs if true global cost share is bigger.
We assume that the percentage of revenue Airbnb made in the U.S. is the same as the U.S. home share market's global market share.	May underestimate costs for hosts located outside of the U.S. if the true market share is smaller. May overestimate costs if true global cost share is bigger.
We assume that 100% of all costs to foreign hotels with U.S.-facing websites will be passed on to U.S. consumers.	We include costs to foreign hotels with US-facing websites because complying with the proposed rule may cause them to pass through some costs to U.S. hotel shoppers. We are unable to quantify what percentage of costs will be passed through, though we believe it will be trivial. Nevertheless, to be conservative we include all costs to foreign hotels and home share hosts. This inflates our cost estimates, resulting in a smaller, more conservative net benefit.

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The Commission is expressly soliciting comments regarding the uncertainties described in Table 12. Specifically, the Commission requests data that would allow for more refined estimation of benefits of the proposed rule, including statistics on domestic versus foreign bookings by U.S. consumers, data on the reduction of average listings viewed as a result of the proposed rule, and data on the average search time saved for consumers as a result of the proposed rule. The Commission also requests data to refine the estimated cost of the proposed rule, including whether the 6% resort fee statistic from the AHLA applies to firms or establishments, the anticipated cost to firms and home share hosts from complying with the proposed rule, and data on the number of home share hosts in the US.

c. Restaurant Industry

This section considers the impact of the proposed rule on restaurants and drinking establishments, collectively referred to as ''restaurants,'' and discuss the potential benefits and costs of the proposed rule within this industry. While we focus here on the restaurant industry, many of the benefit and cost considerations presented here likely apply in similar fashion to other service industries in which either tipping is common or service fees are being employed. Examples of businesses in these industries include nail salons and massage studios. We lack data to quantify several of these benefits and costs, but we estimate compliance costs and determine a break-even level of benefit.

The restaurant industry has seen a recent spike in the use of hidden fees. In its 2023 State of the Industry Report, the National Restaurant Association notes that 15% of restaurants (13% of limited-service restaurants and 17% of full-service restaurants) are adding fees to bills.[343] These fees are typically a percentage of the subtotal before sales tax. Futhermore, 81% of the restaurants adding these fees plan to continue adding these charges for more than a year.

Fees in the restaurant industry take several forms. First, it has been a long-standing practice for most, if not all, full-service restaurants to charge mandatory service fees for large parties (typically a minimum of 6 or 8 consumers). We assume in our cost calculations that all full-service restaurants employ large-party mandatory charges.

Second, some restaurants have added mandatory service fees for parties of any size. These fees equal a percentage of the bill, typically 18%, 20%, or 22%, in line with customary percentages consumers use to calculate gratuities. Third, some restaurants are charging 5–10% fees they describe as supporting higher wages or enhanced benefits for workers. In State or local jurisdictions that are eliminating the distinction between tipped and standard minimum wages by raising the tipped minimum wage to equal the corresponding standard minimum wage, some restaurants are including specific fees as part of the transition.[344] Finally, some

[343] *State of the Restaurant Industry 2023*, National Restaurant Association (2023).

[344] Seven States (Alaska, California, Minnesota, Montana, Nevada, Oregon, and Washington) and

Continued

restaurants have added inflation-related charges and others are charging consumers a fee for paying with credit cards instead of cash.

The expectations that consumers have regarding fees will depend upon the type of fees. For example, consumers likely expect mandatory service charges for large parties given that they are a common industry practice. On the other hand, recently introduced fees may be a surprise to consumers. Consumers' expectations will depend on how such fees are disclosed. In addition, restaurants rely on local demand and so repeat customers may come to learn about the fees that restaurants charge—such as whether they have substituted mandatory service charges for tips—over time. In line with observations in the drip pricing literature, consumers are more likely to choose restaurants based on their expectations on cost, which may not incorporate the added costs of fees.

In the absence of a rule, restaurants have discretion as to how they disclose these fees to consumers. Some restaurants may make prominent statements that they have moved to mandatory service charges or instruct consumers not to provide tips. Others may disclose such fees on their menus, which some consumers may not read and so only learn of the fees after receiving the bill at the end of the meal. At this point, consumers have no choice but to accept the fees. Restaurants may characterize some fees as optional and, thus, avoidable in principle, but these fees are mandatory in effect because consumers may not have a way to practicably avoid them if they do not learn of them until receiving the bill. For example, a consumer can avoid a credit card usage fee by paying with cash. If, however, the consumer does not know about this fee in advance and does not have sufficient cash on hand, it is unlikely that the consumer can obtain cash on the spot to cover the bill. As with mandatory fees, the consumer has no reasonable choice but to accept and pay the unexpected credit card usage fee.

Mandatory service charges, the largest fees being added to bills, are commensurate with customary levels of tipping, but they are not necessarily used as a substitute for tipping; in fact, tips and mandatory service fees are distinct under tax and labor laws.[345] All fees imposed by a restaurant, including mandatory service charges, accrue to the restaurant's owner, and the owner has full descretion regarding the use of these fees, including whether fees are passed on to waitstaff. For example, a restaurant may choose to pay a higher wage (''fair wage'') out of all the income it receives. In addition, a restaurant may choose to disclose how these mandatory services fees will be used. Some restaurants, for example, have waitstaff explicitly inform consumers that their bills include a mandatory service charge and, thus, no tip is necessary.

The variation across restaurants in types of fees and use of those fees is likely to affect how consumers tip. It is reasonable to assume that most consumers will not tip when explicitly informed that a tip is not necessary. In the absence of such instruction, fees will still likely have a crowding out effect on consumer tipping.[346] Regardless of how restaurants emplooying mandatory service fees are using or distributing these fees, consumers likely view these larger fees as tip replacements; consequently, consumers will leave little or not tip when make aware of restaurants' service fees. Changes in tipping will subsequently impace the labor market for waitstaff.

(1) Restaurants: Benefits of Proposed Rule

As applied to restaurants, the proposed rule would require the prices of menu items to be inclusive of any mandatory fees. Restaurants that have implemented mandatory service fees intended as substitutes for tipping could satisfy the proposed rule in one of two ways. First, restaurants could maintain menu prices and eliminate mandatory service fees with the expectation that consumers will resume tipping as is customary. This would represent a return to the traditional tipping model, the typical pricing structure of most restaurants. Alternatively, restaurants could increase menu prices to incorporate the mandatory service charge and continue to operate on a no-tipping-expected model.[347] Since most restaurants use the traditional tipping model, a restaurant including manatory service charges in its prices would look more expensive than most of its competitors that have optional tips and so lose out on customers to its competitors. We thus assume these restaurants will choose a return to the traditional tipping model in response to the proposed rule.

Given the long-standing usage of large party fees, we assume restaurants currently imposing these fees would respond to the proposed rule by printing separate small party and large party menus, the latter of which would incorporate the large party fees into menu prices. Finally, since non-service-related fees, such as credit card usage fees, are generally not as well established, we assume restaurants would eliminate these fees and adjust menu prices in response to the proposed rule.

The primary benefit in the restaurant industry from the proposed rule would be the reduction or elimination of deadweight loss in the current, inefficient market equilibrium. An additional, unquantifiable benefit would be the reduction or elimination of psychological costs to consumers caused by the frustration of surprise fees. Furthermore, much confusion and frustration exists among consumers regarding the use of newer restaurant fees. For example, many consumers are confused by ''service'' charges or fees where those fees do not go to service workers. The proposed rule's prohibition on misrepresenting the nature and purpose of such fees would provide the additional unquantified benefit of lessening consumer confusion around such service charges. This benefit serves both consumers as well as service workers as it increases transparency.

Due to the incomplete price information problem described in Section VII.C.1, the proposed rule requiring restaurants to show the total price of menu items will likely result in a reduction of deadweight loss. Consumers, initially unaware of restaurant fees, are likely spending more on menu items than they would if they knew the full prices. This market inefficiency may be exacerbated in the restaurant industry since consumers often learn of fees when receiving bills and, thus, are unable to adjust their choices in response to the fees.

one territory (Guam) have a uniform minimum wage, regardless of tips. U.S. Dep't of Lab., *Minimum Wages for Tipped Employees* (July 1, 2023), *https://www.dol.gov/agencies/whd/state/minimum-wage/tipped.* Several States and the District of Columbia are currently considering a transition or are in the process of transitioning to a uniform minimum wage. Talmon Joseph Smith, *Battle Over Wage Rules for Tipped Workers Is Heating Up,* N.Y. Times (Oct. 14, 2022), *https://www.nytimes.com/2022/10/13/business/economy/tipped-wage-subminimum.html.*

[345] *See, e.g.,* I.R.S., *Internal Revenue Bulletin: 2012–26* (June 25, 2012), *https://www.irs.gov/irb/2012-26_IRB;* U.S. Dep't of Lab., *Tip Regulations under the Fair Labor Standards Act (FLSA), https://www.dol.gov/agencies/whd/flsa/tips.*

[346] In some cases, consumers may ''overtip'' if they are unaware of mandatory service fees. We do not consider this issue or other similar issues related to tip adjustments because they involve transfers and, thus, have a net neutral impact on social welfare.

[347] Restaurants could continue to include tip lines in bills; the proposed rule does not proscribe tipping in any way. Consumers who wish to leave additional gratuities would still be able to do so.

However, widespread practices understood by consumers like mandatory service charges for large parties are less likely to create such inefficiencies. The proposed rule would allow consumers to make fully informed decisions that would lead to a more efficient market equilibrium and reduce or eliminate the deadweight loss in the prevailing equilibrium. We lack data to quantify this reduction in deadweight loss.

(2) Restaurants: Costs of Proposed Rule

This section describes the potential costs of the proposed rule's provisions and provide quantitative estimates where possible. We obtain the number of firms and establishments in the restaurant industry from the 2020 SUSB Annual Dataset. For restaurants, the cost of worker time is monetized using wages obtained from the Bureau of Labor Statistics May 2022 National Occupational Employment and Wage Estimates.[348] Restaurants and drinking establishments fall under the two-digit NAICS code of 72 for accommodation and food services, and we use industry-specific average wages for this sector to estimate costs.

(a) Compliance Costs

The costs to firms from the proposed rule include a review of how the proposed rule applies to the firm, one-time costs to comply with the proposed rule, and annual costs to review and ensure on-going compliance. Our preliminary analysis presents two cost scenarios corresponding to different assumptions on how many hours are required to comply with the proposed rule and how many firms would be impacted by the proposed rule. We present these as a low-end cost scenario and a high-end cost scenario. Table 13 summarizes compliance costs under both of these scenarios.

As in the general discussion of compliance costs in Section VII.C.2.c, we assume that restaurants already in compliance with the proposed rule would incur one hour of lawyer time to confirm this compliance. Similarly, we assume that restaurants not currently in compliance would incur five to ten hours of legal advice to understand the impact of the proposed rule and five to ten hours of legal advice to come into compliance with the proposed rule. Pricing in the restaurant industry is less complex than in the previously discussed industries. We assume that restaurant owners themselves spend five to ten hours reoptimizing prices, and we use the wage of food service managers as a proxy for the cost of this time. These costs would be incurred at the firm level; that is, a firm operating multiple identically branded restaurants would incur these costs once.[349]

Restaurants not currently in compliance with the proposed rule would need to update and possibly redesign menus or menu boards. To estimate menu-related costs, a cost specific to this industry, we use the assumptions and prices of the FDA's Regulatory Impact Analysis for its 2014 Menu Labeling Rule [350] (''Menu Labeling RIA''), with prices inflated to 2023 levels according to the BLS CPI Inflation Calculator.[351] Thus, we assume that the average cost for a restaurant firm to redesign its menu is $4,818. One potential source of uncertainty in this estimate is the adoption of QR codes and online menus, which may reduce physical menu costs. However, we are unaware of evidence on the adoption of these new technologies.

After the relevant firms redesign their menus, menu replacement would need to occur at each establishment. Following the Menu Labeling RIA, we assume between 0% and 50% of full-service restaurants and bars would have to replace printed menus, at an average cost of $2.60 per menu, at their establishments in response to the proposed rule. Since printed menus are regularly replaced, many establishments would already be in the process of reprinting menus that could be coordinated with any changes needed to be made at the time the rule goes into effect; the proposed rule would not impact printing costs for these establishments.[352] For other establishments (limited-service restaurants, cafeterias, coffee shops, etc.), we assume that menu boards have an average replacement cost of $715. For all establisments replacing menus or menu boards, we assume replacement requires one hour of managerial time at a wage of $31.47 and one hour of waitstaff time at a wage of $15.89. We acknowledge that it is uncertain how appropriately the menu redesign costs from the Menu Labeling Regulatory Impact Analysis would represent the menu redesign costs in this context. The costs used in this analysis may also serve as a proxy for any additional costs restaurants may incur that are not captured in this analysis.

As in the general discussion of compliance costs, we assume that restaurant firms not currently in compliance would incur zero to ten hours of attorney time to ensure continued compliance in future years. Table 13 provides the total quantified costs (one-time upfront costs plus annual costs) for both the low-end and high-end cost scenarios, and these costs are calculated as present values using discount rates of 7% and 3%. Annualized per firm costs are also provided; for parsimony, these annualized costs are presented for two consolidated categories of restaurant types: (1) full-service restaurants and bars and (2) limited-service restaurants and cafeterias, buffets, snack/coffee shops, etc.

[348] U.S. Bureau Lab. Stat., Occupational Employment and Wage Statistics, *May 2022 National Industry-Specific Occupational Employment and Wage Estimates: Sector 72—Accommodation and Food Services* (May 2022) (''OEWS Accommodation and Food Services''), *https://www.bls.gov/oes/current/naics2_72.htm.*

[349] These calculations will underestimate the costs of firms that operate a portfolio of heterogeneous restaurants. We do not expect the additional cost to such firms to significantly impact the industry-wide cost estimates.

[350] Food & Drug Admin., *Final Rule, Food Labeling; Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments,* 79 Fed. Reg. 71155 (Dec. 1, 2014).

[351] U.S. Bureau Lab. Stat., CPI Inflation Calculator, *https://www.bls.gov/data/inflation_calculator.htm.* Costs inflated from November 2014 to June 2023.

[352] Since large party service fees are widespread and well-established, it may be the case that full-service restaurants respond to the rule by setting two sets of prices, one for large parties and one for small parties. We assume that this choice would not affect menu printing costs since restaurants could select the number of each type of menu according to their established seating arrangements. Restaurants have flexibility in accommodating large parties by combining tables, but we assume that maintaining this flexibility would have little effect on menu printing costs as our estimate already accounts for extra menus.

Table 13 – Restaurants: Estimated Costs of Compliance

Present Value of Costs Over a 10-Year Period			
Number of restaurants by type		**Firms**	**Establishments**
All restaurant types		466,976	615,135
Full-service restaurants		217,103	249,975
Bars		38,253	39,129
Limited-service restaurants		156,138	251,533
Cafeterias, buffets, snacks, coffee shops, etc.		56,611	74,498
Percentage of full-service firms charging fees	100%		
Percentage of other firms charging fees	13%		
Hourly Wages	**Rate**		
Lawyers	$88.88		
Managers	$31.47		
Staff	$15.89		
Upfront Costs		**Low-Cost Estimate**	**High-Cost Estimate**
Per firm labor hours required for compliance			
Hours to determine how rule applies, presently compliant firms (lawyer hours)		1	1
Hours to determine how rule applies, presently noncompliant firms (lawyer hours)		5	10
Hours to reoptimize prices (manager time)		5	10
Per establishment hours required for compliance			
Hours to swap out menus/menu boards (manager time)		1	1
Hours to swap out menus/menu boards (staff time)		1	1
Per firm menu costs			

Cost to redesign menus		$4,818.27	
Per establishment menu costs			
Number of printed menus to be replaced			
Full-service restaurants		91	
Bars		78	
Cost per printed menu		$2.60	
Percentage of menus to be replaced			0% 50%
Number of menu boards to be replaced			
Limited-service restaurants		3	
Cafeterias, buffets, snacks, coffee shops, etc.		1	
Cost per menu board		$715.07	
One-Time Fixed Cost to Include Fees Up Front			**$1,452,046,501 $1,638,454,104**
Annual Costs			
Hours for Reviewing Rule and Compliance (Annual)			0 10
Total Annual Costs			**$0 $221,962,921**
Total Costs			
Total Quantified Costs (One-Time + Annual)	**7% discount rate**		**$1,452,046,501 $3,197,428,782**
Total Quantified Costs (One-Time + Annual)	**3% discount rate**		**$1,452,046,501 $3,531,842,847**
Annualized Per Firm Costs (Noncompliant Firms)			
Full-Service/Bars	**7% discount rate**		**$772 $1,769**
Full-Service/Bars	**3% discount rate**		**$1,179 $2,153**
Limited-service/cafeterias/coffee shops	**7% discount rate**		**$635 $1,614**
Limited-service/cafeterias/coffee shops	**3% discount rate**		**$971 $1,930**

Note: Costs have been discounted to the present at both 3% and 7% rates. Numbers of firms and establishments from NAICS codes 7224 (Drinking Places (Alcoholic Beverages)) and 7225 (Restaurants and Other Eating Places). Hourly wages are from the Bureau of Labor Statistics.[353] Annualized per firms costs for firms that are not presently compliant represent a weighted average of the indicated restaurant types. We relied upon publicly available sources of data in our calculations. We recognize that there may be additional sources of data and we encourage comments that provide alternative sources of data where they are available.

(b) Labor Market Effects

We have assumed that the proposed rule would lead any restaurants that have adopted mandatory service charges in lieu of tipping to return to the traditional tipping model. Adjustments in tipping and restaurant worker compensation will likely lead to a shift in the labor market equilibrium for restaurant workers. This shift could generate a net benefit or a net cost to society, as well as transfers to or from restaurant workers, but we lack the data to quantitatively or qualitatively determine the welfare effect of the equilibrium shift.

In addition, this shift would generate differing welfare impacts across the waitstaff labor market. For example, moving away from the traditional tipping model and toward standardized wages, would mitigate discrimination that occurs through tipping. The literature has found that Black employees tend to receive lower tips than White employees, and that the black-white gap in tipping cannot be explained by differences in service quality.[354] There is also evidence that, after controlling for other factors, women earn less in tips than men.[355] Thus, by causing restaurants to revert to the traditional tipping model as we have assumed, the proposed rule may have the unintended consequence of increasing racial gender disparities in the waitstaff labor market.

(3) Restaurants: Break-Even Analysis

As discussed in Section VII.C.1, we lack data to quantify the benefits of the proposed rule within the restaurant

[353] OEWS Accommodation and Food Services, *supra* n. 348.

[354] *See, e.g.,* Michael Lynn et al., *Consumer Racial Discrimination in Tipping: A Replication and Extension,* 38 J. Applied Soc. Psych. 4, 1045–60 (2008), *https://doi.org/10.1111/j.1559-1816.2008.00338.x;* Zachary W. Brewster et al., *Black-White Earnings Gap among Restaurant Servers: A Replication, Extension, and Exploration of Consumer Racial Discrimination in Tipping,* 84 Socio. Inquiry 4 (2013), *https://doi.org/10.1111/soin.*12056.

[355] *See* Matthew Parrett, *Customer Discrimination in Restaurants: Dining Frequency Matters,* 32 J. Lab. Rsch. 2, 87–112 (2011), *https://doi.org/10.1007/s12122-011-9107-8.*

industry. Instead, we calculate what the benefits would need to be in order for the proposed rule to have a positive net benefit. We calculate that if the proposed rule results in a benefit of at least $1.76 per consumer per year over 10 years, then the benefits to the restaurant industry of the proposed rule will exceed the industry's compliance costs under the high-end cost assumptions with a 7% discount rate.

(4) Restaurants: Uncertainties

Our ability to precisely estimate benefits and costs is limited due to uncertainties in key parameters. The quantified benefits and costs for the restaurant industry rely on a set of assumptions, based on the best available public information. When the data were unclear, we used sets of assumptions that would generate a range of low-end and high-end estimates. Table 14 summarizes the key assumptions and how those assumptions may affect the resulting estimate of quantified benefits and costs.

Table 14 – Restaurants: Summary of Key Uncertainties

Assumption or Uncertainty	Impact on Costs
Types of firm cost: • Using NAICS codes to determine which restaurant firms count as full-service versus non-full-service • Full-service restaurants and bars use printed menus while other restaurant types use menu boards	• May underestimate or overestimate percentage of firms estimated to be out of compliance if NAICS and NRA classifications do not line up • May overestimate or underestimate aggregate menu costs
Number of hours necessary to comply with proposed rule: • Hours of lawyer time, restaurant manager time, and restaurant employee time	• May overestimate costs per firm if many firms either already comply or have the systems in place to easily comply with proposed rule. Also may underestimate costs if compliance requires greater number of hours
Menu costs: • Using Menu Labeling Regulatory Impact Analysis assumptions	May underestimate costs if menu costs have outpaced inflation. May underestimate or overestimate costs since menu redesign costs may

on costs of menu design, menu printing, and menu board replacement • Number of seats per establishment	not be comparable between this context and Menu Labeling Rule context • May underestimate costs if restaurants have increased capacity since 2014
Assumption or Uncertainty	Impact on Break-Even Benefits Amount
Number of affected consumers: • Assuming all adults are affected	• Underestimates required break-even benefit amount per consumer if some adults are not impacted by the rule because they are not restaurant consumers or they only consume from establishments unaffected by the rule

The Commission is expressly soliciting comments regarding the uncertainties described in Table 14. Specifically, the Commission requests data that would allow for more refined estimation of benefits of the proposed rule. The Commission also requests data to refine the estimated cost of the proposed rule, including information on the number of restaurants currently charging hidden or misleading mandatory fees, and the anticipated cost to firms from complying with the proposed rule.

4. Economic Evaluation of Alternatives

As an alternative to the proposed rule, the Commission has considered not pursuing rulemaking and to rely on its existing tools through enforcement actions and consumer education instead. Relative to a no-action baseline, by definition, there would be no incremental benefits or costs. The prevalence of drip pricing and hidden mandatory fees would continue to persist.

Another potential alternative as discussed in Section VII.B. is whether the rule should be limited to businesses in the live-event ticketing and/or short-term lodging industries. For these specific industries where we are able to quantify both benefits and costs, we have the following evaluation of costs and benefits of such an alternative. In the live-event ticketing industry, the estimated present value of net benefits due to the proposed rule over a 10-year period with a 7% discount rate is between $20,464,879 and $1,762,524,107. Using a 3% rate, the present value of net benefits in the live-event ticketing industry is estimated to be between $41,746,333 and $2,143,665,007. The present value of net benefits from the proposed rule's requirements over a 10-year period using a 7% discount rate in the short-term lodging industry is estimated to be between $4,247,948,290–$6,752,614,872. Using a 3% rate, the present value of net benefits in the short-term lodging industry is estimated to be between $5,220,642,791 and $8,230,386,045.

The Commission does not have the data to prepare a quantitative analysis of the other alternatives discussed in Section VII.B. The final regulatory analysis may include additional quantification of alternative proposals if the Commission receives data and relevant information in response to the questions for public comment in Section X.

5. Summary of Results

The preceding regulatory analysis has attempted to catalog and, where possible, quantify the potential costs for the economy as a whole, as well as the incremental benefits and costs of the proposed rule for specific industries. At the economy level, we estimate that, for most firms in the economy, the per firm cost will be a one-time cost of $78.74. For firms and industries that currently rely on hidden mandatory fees and require more time to comply, we estimate the annualized per firm cost might be as high as $2,010.

Because the Commission is unable to quantify economy-wide benefits to the proposed rule, at the economy level we provide a break-even analysis using quantified compliance costs. The break-even analysis implies there are positive net benefits to the proposed rule if the benefit per consumer is at least $6.65 per consumer per year over a 10-year period. Note that this analysis does not account for costs from unintended consequences of the proposed rule or the potential benefits from reducing deadweight loss by providing consumers with full information.

VIII. Paperwork Reduction Act

The Paperwork Reduction Act (''PRA''), 44 U.S.C. 3501 *et seq.,* requires Federal agencies to seek and obtain Office of Management and Budget (''OMB'') approval before undertaking a collection of information directed to ten or more persons. The term ''collection of information'' includes any requirement or request for persons to obtain, maintain, retain, report, or publicly disclose information.[356] The Commission believes the proposed rule contains a disclosure requirement that would constitute a collection of information requiring OMB approval under the PRA. The Commission has submitted the proposed rule to OMB for review and approval of any collection of information requirements.

[356] 44 U.S.C. 3502(3); 5 CFR 1320.3(c).

A. Hidden Fees Prohibited

Section 464.2(a) of the proposed rule defines it as an unfair and deceptive practice for businesses to offer, display, or advertise amounts consumers may pay without clearly and conspicuously disclosing the Total Price, as defined in the proposed rule. § 464.2(b) specifies that, as a preventative measure, businesses that offer, display, or advertise an amount a consumer may pay must display the Total Price more prominently than any other pricing information. While these provisions may alter when and how, in the course of transactions, businesses disclose Total Price, the disclosure itself provides consumers with information readily available to businesses and is something businesses must do in the course of their regular business activities. Thus, the Commission concludes that the Total Price disclosure does not constitute a collection of information for PRA purposes and estimates that any additional attendant costs are *de minimis.*

B. Misleading Fees Prohibited

Section 464.3(a) of the proposed rule prohibits businesses from misrepresenting the nature and purpose of any amount a consumer may pay, including the refundability of such fees and the identity of any good or service for which fees are charged. This Section does not require any additional disclosures or information collection, and only requires businesses to refrain from making misrepresentations. The Commission concludes that any additional costs that might be associated with the prohibitions in § 464.3(a) against making misrepresentations are *de minimis.*

Section 464.3(b) of the proposed rule requires businesses to disclose clearly and conspicuously before consumers consent to pay the nature and purpose of any amount a consumer may pay that is excluded from the Total Price, including the refundability of such fees and the identity of any good or service for which fees are charged. The information required by § 464.3(b) is necessary as a preventative measure to address the unfair and deceptive conduct of misrepresenting the nature and purpose of fees. Disclosing the amount of fees and the identity of goods or services for which the fees are charged provides consumers with information readily available to businesses and is something businesses do in the course of their regular business activities. The Commission concludes that disclosing the amount of fees and the identity of goods or services does not constitute a collection of information for PRA purposes, and that any costs associated with making these disclosures are *de minimis.* In connection with the requirement in § 464.3(b) that businesses disclose the refundability of fees and charges, businesses may not routinely disclose this information as part of business transactions, and there may be costs associated with developing procedures to provide this disclosure. The Commission estimates such costs as follows:

1. Estimated One-Time Hours Burden: 245,454 Hours

The estimated hours of one-time burden for the required disclosures is 245,454 hours. This estimate is explained in this section.

2. Number of Respondents

The proposed rule applies to all firms in the economy and may result in all firms conducting a compliance review, which we proxy with one hour of attorney time. FTC staff estimates there are 818,178 entities that will incur additional costs beyond the initial one-hour compliance review to comply fully with the proposed rule, including firms in the live-event ticketing industry, the hospitality industry, and restaurants. This estimate is based on the total number of firms in the United States according to data from the U.S. Census North American Industry Classification System (NAICS). This estimate relies on the assumption that 10% of all firms in the U.S. (outside of the three specific industries) will incur additional compliance costs.

Of the 818,178 total entities incurring additional costs, only some firms will incur costs directly related to the disclosure requirement. The remaining firms may incur compliance costs due to other provisions of the rule. For example, some firms may only need to re-optimize price and adjust price displays (because they previously charged hidden mandatory fees), but these firms do not need to add disclosures. Lastly, many firms that charge fees for optional goods and services may already disclose whether those optional fees are refundable. Accordingly, we assume that 20% of the 818,178 total firms that incur additional compliance costs would be required to add disclosures regarding the refundability of fees not included in Total Price, resulting in an estimated 163,636 number of respondents.[357]

3. Disclosure Hours

The proposed rule would require firms to disclose the nature and purpose of any amount a consumer may pay that is excluded from the Total Price, including the refundability of such fees and the identity of any good or service for which fees are charged. We anticipate that the substantial majority of sellers routinely provide these disclosures in the ordinary course of business as a matter of good business practice. For these sellers, the time and financial resources associated with making these disclosures do not constitute a ''burden'' under the PRA because they are a usual and customary part of regular business practice. 5 CFR 1320.3(b)(2). Moreover, some State laws require the same or similar disclosures as the proposed rule mandates. In addition, some firms may be covered by disclosure requirements of other rules.

Accordingly, to reflect these various considerations, we estimate the disclosure burden required by the proposed rule will be, on average, 90 minutes (or 1.5 hours) for each entity estimated to not be currently compliant with the disclosure requirement of the proposed rule. Of this 90-minute total, we estimate that 30 minutes will be time spent by attorneys reviewing the disclosure and 60 minutes will be time spent to update the website or physical price display. The total estimated one-time burden is 245,454 hours (163,636 firms × 1.5 hours).

4. Estimated One-Time Labor Cost

The estimated one-time labor cost for disclosures is $13,305,243. This total is the sum of the total cost of attorney time calculated by applying the hourly wage for attorney time of $78.40 to the estimate of 30 minutes of attorney time and applying the hourly wage for web developer time of $42.11 to the estimate of 60 minutes (1 hour) of web developer time ($81.31 per entity × 163,636 entities).[358]

5. Estimated Non-Labor Cost

The capital and start-up costs associated with the proposed rule's disclosure are *de minimis.* Any disclosure capital costs involved with the proposed rule, such as equipment and office supplies, would be costs

[357] This number may be overinclusive as it as it includes firms that would be exempted from the definition of Business as described in 464.1(b) of the proposed rule if the proposed Motor Vehicle Dealers Rule is finalized.

[358] Web developer time is a proxy for any costs associated with changing the firm's disclosures to comply with the proposed rule, such as the time spent adjusting websites or adjusting any physical price displays to include the disclosure. The estimated mean hourly wages for a web developer is $42.11. OEWS Web Developers, *supra* n. 272.

borne by sellers in the normal course of business.

Under Section 3506(c)(2)(A) of the Paperwork Reduction Act, the Commission invites comments on: (1) whether the disclosure requirements are necessary, including whether the resulting information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) how to improve the quality, utility, and clarity of the disclosure requirements; and (4) how to minimize the burden of providing the required information to consumers.

Comments on the proposed disclosure requirement subject to Paperwork Reduction Act review by OMB should additionally be submitted 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. The *reginfo.gov* web link is a United States Government website operated by OMB and the General Services Administration (GSA). Under PRA requirements, OMB's Office of Information and Regulatory Affairs (OIRA) reviews Federal information collections.

IX. Regulatory Flexibility Act—Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires the Commission to prepare and make available for public comment an ''initial regulatory flexibility analysis'' (''IRFA'') in connection with any NPRM. 5 U.S.C. 603. An IRFA requires many of the same components as Section 22 of the FTC Act and the Paperwork Reduction Act, including (1) a description of the reasons that agency action is being considered, (2) a statement of the objectives of, and legal basis for, the proposed rule, and (3) a description of any significant alternatives to the proposed rule which accomplish the stated objectives and minimize any significant economic impact of the proposed rule on small entities. Where the Commission has already addressed these components, it incorporates that analysis into its IRFA.[359] The remaining requirements are addressed in this section.

The Commission invites comment on the burden on any small entities that would be covered and has prepared the following analysis.

A. Description and Estimate of the Number of Small Entities to Which the Proposed Rule Will Apply

Most firms in the U.S. economy would be subject to this proposed rule, but only firms that do not currently disclose total price will need to adjust their pricing strategy. According to the Statistics of U.S. Businesses, there were 6,119,657 firms in the United States with fewer than 500 employees, representing 99.7% of all U.S. firms.[360] Small businesses that currently comply with the proposed rule will have a relatively trivial cost of assessing whether they are currently in compliance, and we assume at most these firms will use one hour of lawyer time to confirm compliance. Small businesses that currently do not disclose total price (such as restaurants charging mandatory service fees), will incur additional costs to re-optimize prices and adjust the marketing campaigns and the consumer purchase process to include full total cost. The Commission seeks comment and information regarding the estimated number and the nature of small business entities for which the proposed rule would have a significant economic impact.

B. Description of the Projected Reporting, Recordkeeping and Other Compliance Requirements of the Proposed Rule

The proposed rule contains no reporting or recordkeeping requirements. To comply with the proposed rule, small entities are required to disclose total price prominently and not misrepresent the nature and purpose of any amount a consumer may pay. Almost all firms, including small entities, are subject to the requirements of the proposed rule. For firms that already comply with the proposed rule, the one-time cost per firm is assumed to be one hour of lawyer time at $78.74.

For small businesses that are not currently in compliance, firms will need to re-optimize prices, adjust marketing campaigns, and adapt the purchase process to include full total cost. These firms may also incur recurring annual costs of additional lawyer time to assess and confirm annual compliance. The annualized costs of the one-time cost and the annual costs for the next 10 years is estimated to be as much as $2,010 per firm averaged over all industries. Industry-specific per firm costs, however, may be smaller or larger than this estimate.

C. Identification, to the Extent Practicable, of All Relevant Federal Rules That May Duplicate, Overlap or Conflict With the Proposed Rule

The FTC has not identified any other Federal statutes, rules, or policies currently in effect that may directly duplicate or conflict with the proposed rule. The Commission has identified a number of other rules or laws that contain provisions that potentially overlap with certain provisions of the proposed rule.[361] First, several other rules or laws contain requirements regarding the disclosure of pricing information in specific industries or in connection with specific transactions, including: the Consumer Leasing Act,[362] the Electronic Fund Transfer Act,[363] the Franchise Rule,[364] the Funeral Rule,[365] the Truth in Lending Act,[366] the

[359] *See* Sections III and VII A–B. of this preamble.

[360] U.S. Census Bureau, *supra* n. 271. Employment of fewer than 500 employees is a commonly used metric for classifying a firm as a ''small business.''

[361] The proposed rule is intended to supplement or complement these existing laws and rules.

[362] For example, Regulation M, which implements the Consumer Leasing Act (''CLA''), requires that an advertisement for a consumer lease, among other things, ''may state that a specific lease of property at specific amounts or terms is available only if the lessor usually and customarily leases or will lease the property at those amounts or terms,'' and the Regulation also requires a series of written disclosures with pricing information, prior to consummation of a consumer lease. *See* 12 CFR 1013.7 and 213.7; 12 CFR 1013.4 and 213.4. Model forms for written disclosures are in Regulation M, Appendix A, 12 CFR 1013 and 213. The CLA is at 15 U.S.C. 1667–1667f.

[363] For example, Regulation E, which implements the Electronic Fund Transfer Act (''EFTA''), requires financial institutions to disclose fees, among other things, at the time a consumer contracts for the service or before the first electronic fund transfer is made. *See* 12 CFR 1005.7 and 205.7. In some instances, Regulation E applies to other entities, including persons and remittance transfer providers, and requires written disclosures or authorizations as to certain costs or payments and pricing terms for gift cards, prepaid accounts, certain remittance transfers and preauthorized transfers. Model forms for written disclosures are found in Regulation E, Appendix A, 12 CFR 1005 and 205. The EFTA is at 15 U.S.C. 1693–1693r.

[364] The Franchise Rule requires sellers of franchises to make specific disclosures in a prescribed form regarding the total investment necessary to begin operation of a franchise, as well as other costs. The Franchise Rule also requires the disclosure of any initial fees and their refundability. 16 CFR 436.

[365] The Funeral Rule requires specific pricing disclosures and itemizations for funeral goods and services. 16 CFR 453.

[366] For example, Regulation Z, which implements the Truth in Lending Act (''TILA''), requires that an advertisement for credit, among other things, that states specific credit terms ''shall state only those terms that actually are or will be arranged or offered by the creditor,'' and the Regulation also requires written disclosures of costs and terms for many consumer credit products including mortgage loans, personal loans, credit cards, open-end credit, automobile financing, and student loans. *See e.g.,* 12 CFR 1026.24 and 226.24, 1026.16 and 226.16, 1026.6 and 226.6, 1026.18–.19, 1026.37–.38,

Continued

proposed amendments to the Negative Option Rule,[367] the Real Estate Settlement Procedures Act,[368] the Telemarketing Sales Rule,[369] the Truth in Savings Act,[370] the Empowering Broadband Consumers through Transparency Rule,[371] and the Full Fare Advertising Rule.[372] These provisions appear generally compatible with the proposed rule's requirements regarding the disclosure of pricing information. In areas of shared jurisdiction, the Commission seeks comment and information to determine if compliance with the proposed rule along with the specific disclosure provisions for certain types of sectors or transactions would be impossible, overly burdensome, or beneficial.

The Commission has also identified several rules and laws that prohibit misrepresentations potentially related to charges and fees in connection with specific industries or transactions. Specifically, several rules and statutes prohibit misrepresentations that overlap with the proposed rule's prohibition against misrepresenting the nature and purpose of any amount a consumer may pay, including: the Business Opportunity Rule,[373] the Mortgage Acts and Practices Advertising Rule (Regulation N),[374] the Mortgage Assistance Relief Services Rule (Regulation O),[375] the proposed amendments to the Negative Option Rule,[376] the Telemarketing Sales Rule,[377] the TILA,[378] and the TISA.[379] The Commission has not identified any conflict arising from complying with these sector or transaction-specific rules and statutes and the proposed rule's prohibition against misrepresenting the nature and purpose of any amount a consumer may pay. The Commission invites comment and information regarding any potentially duplicative, overlapping, or conflicting Federal statutes, rules, or policies.

X. Request for Comments

Members of the public are invited to comment on any issues or concerns they believe are relevant or appropriate to the Commission's consideration of the proposed rule. The Commission requests that factual data on which the comments are based be submitted with the comments. In addition to the issues raised in this preamble, the Commission solicits public comment on the specific questions identified in this section. These questions are designed to assist the public and should not be construed as a limitation on the issues on which public comment may be submitted.

A. General Questions for Comment

(1) Should the Commission finalize the proposed rule as a final rule? Why or why not? How, if at all, should the Commission change the proposed rule in promulgating a final rule?

(2) Please provide comment, including relevant data, statistics, consumer complaint information, or any other evidence, on each different provision of the proposed rule. Regarding each provision, please include answers to the following questions:

(a) What is the provision's impact (including any benefits and costs), if any, on consumers, governments, and businesses, both those existing and those yet to be started?

(b) What alternative provision(s) should the Commission consider?

(3) Would the proposed rule, if promulgated, benefit consumers and competition? Provide all available data and evidence that supports your answer, such as empirical data, statistics, consumer-perception studies, and consumer complaints.

(4) What are the relevant sources of data that reflect the benefits to consumers and competition from the proposed rule, if promulgated? Provide all available data, statistics, and evidence.

(5) What are the relevant sources of data that reflect the average search time saved for consumers as a result of the proposed rule? Provide all available data, statistics, and evidence.

(6) What are the relevant sources of data that reflect the compliance costs that may apply to businesses from the proposed rule, if promulgated? Provide all available data, statistics, and evidence.

(a) What are the relevant sources of data that reflect the number of firms that will be affected by the proposed rule?

1026.46, and 1026.60–61. Model forms for written disclosures are in Regulation Z, Appendices G–H, 12 CFR 1026 and 226. The TILA is at 15 U.S.C. 1601–1666j.

[367] The proposed amendments to the Negative Option Rule require, for all transactions involving a negative option feature, the disclosure of the amount or range of costs a consumer will be charged, the frequency of the charges and the date each charge will be submitted for payment. These disclosures must be clear and conspicuous and occur before a consumer enters their billing information. Negative Option Rule, 88 FR 24716 (amendments proposed Apr. 24, 2023).

[368] For example, Regulation X, which implements certain aspects of the Real Estate Settlement Procedures Act (''RESPA''), among other things, requires disclosure of settlement service costs and other information and sets other requirements for certain mortgages. *See generally* 12 CFR 1024. Various forms and statements are in Regulation X, including but not limited to Appendices A–D. The RESPA is at 12 U.S.C. 2601 *et seq.*

[369] The Telemarketing Sales Rule (''TSR'') requires telemarketing sellers to clearly and conspicuously disclose, before a consumer consents to pay, the total costs to purchase, receive, or use, and the quantity of, any goods or services. 16 CFR 310.

[370] For example, Regulation DD, which implements the Truth in Savings Act (''TISA''), and which applies to deposit brokers, among others, for certain advertisements, includes various disclosures, including for certain overdraft charges. *See generally* 12 CFR 1030. Additionally, for credit unions insured by or eligible for insurance by NCUSIF (including state-chartered credit unions), a separate regulation generally applies; the advertising provisions of that credit union regulation also apply to persons who advertise such credit union accounts. These credit union-related requirements include, in some instances, disclosures, including for certain overdraft charges. *See generally* 12 CFR 707. The TISA is at 12 U.S.C. 4301–4313.

[371] The recently adopted Empowering Broadband Consumers through Transparency Rule requires internet service providers (ISPs) to display at the point of sale labels that disclose certain information about broadband prices, introductory rates, data allowances, and broadband speeds. The broadband label requires prominent disclosure of monthly price and itemization of monthly provider fees, one time fees, early termination fees and government taxes. The total monthly price does not include the itemized fees. Empowering Broadband Consumers Through Transparency, 87 FR 76959 (Dec. 16, 2022) (to be codified at 47 CFR 8).

[372] The Full Fare Advertising Rule covers advertising or solicitation by a direct air carrier, indirect air carrier, an agent of either, or a ticket agent, for passenger air transportation or tour requiring a component of air transportation. The Rule prohibits stating a price that is not the ''entire price to be paid by the customer to the carrier, or agent, for such air transportation, tour, or tour component.'' 14 CFR 399.84.

[373] The Business Opportunity Rule prohibits certain misrepresentations as to cost. In addition, the Business Opportunity Rule requires an affirmative disclosure of refundability for covered transactions that is broader than the provisions of the proposed rule. 16 CFR 437.

[374] The Mortgage Acts and Practices Advertising Rule, Regulation N (MAPS) prohibits misrepresentations regarding mortgage credit products including ''the existence, nature, or amount of fees or costs to the consumer'' associated with the credit product. The MAPS rule also prohibits misrepresentations regarding ''existence, cost, payment terms, or other terms'' associated with any addition product or feature sold in connection with a mortgage credit product. 12 CFR 1014.

[375] The Mortgage Assistance Relief Services Rule (Regulation O) prohibits misrepresentations regarding total costs and refunds related to mortgage assistance services. 12 CFR 1015.

[376] The proposed amendments to the Negative Option Rule prohibits misrepresentations of material facts related to any negative option transaction. Negative Option Rule, 88 FR 24716 (amendments proposed Apr. 24, 2023).

[377] In connection with telemarketing, the TSR prohibits the misrepresentation of material information, including the total costs to purchase, receive, or use, and the quantity of any goods or services that are the subject of a sales offer. 16 CFR 310.

[378] 15 U.S.C. 1601–1666j. Regulation Z implements the TILA. 12 CFR 1026. Among other things, Regulation Z prohibits misleading advertising of ''fixed'' rates and payments, and misleading comparisons in advertisements, in advertisements for credit secured by a dwelling. *See* 12 CFR 1026.24(i).

[379] Among other things, the TISA (Regulation DD and NCUA's separate implementing regulation) prohibits misleading or inaccurate advertisements. *See, generally,* 12 CFR 1030.8 and 707.8.

Provide all available data, statistics, and evidence.

(b) What are the relevant sources of data that reflect the number of lawyer hours a firm in each industry would need to review compliance with the rule? Provide all available data, statistics, and evidence.

(c) What are the relevant sources of data that reflect the number of data scientist hours a firm in each industry would need to comply with the proposed rule? Provide all available data, statistics, and evidence.

(d) What are the relevant sources of data that reflect the number of web developer hours a firm in each industry would need to comply with the proposed rule? Provide all available data, statistics, and evidence.

(e) What are the relevant sources of data that reflect other possible costs that have not already been considered that may apply to businesses, consumers, or workers from the proposed rule, if promulgated? Provide all available data, statistics, and evidence.

(f) What are the relevant sources of data that reflect the number of firms in each industry that use third-party services to display pricing information that would reduce the costs of compliance? What are the relevant sources of data that reflect how much such services would cost in order to comply with the proposed rule? Provide all available data, statistics, and evidence.

(7) Would the proposed rule, if promulgated, have a significant economic impact on a substantial number of small entities? If so, how could it be modified to avoid a significant economic impact on a substantial number of small entities?

(8) How would the proposed rule, if promulgated, intersect with existing industry practices, norms, rules, laws, or regulations? Are there any existing laws or regulations that would affect or interfere with the implementation of the proposed rule?

(9) Is the proposed rule adequate to address the two practices identified as prevalent, misrepresenting the total costs of goods and services by omitting mandatory fees from advertised prices and misrepresenting the nature and purpose of fees? Are there additional provisions necessary to prevent these practices in specific industries?

B. § 464.1: Definitions

(10) Are the proposed definitions clear? Should any changes be made to any definitions? Are additional definitions needed?

(11) Should the scope of any of the proposed definitions be expanded or narrowed, and if so, how and why?

(12) Should the proposed definition for ''Business'' exclude certain businesses, and if so, why?

(13) The proposed definition for ''Business'' contains an exclusion for ''motor vehicle dealers that must comply with 16 CFR 463, requiring motor vehicle dealers to disclose the full cash price for which a dealer will sell or finance the motor vehicle to any consumer, and prohibiting motor vehicle dealers from making misrepresentations.'' Is this definition clear and understandable? Is this definition ambiguous in any way? How, if at all, should this definition be improved? This exception would only apply if the proposed Motor Vehicle Dealers Rule is finalized and in effect and not subsequently narrowed, altered, or otherwise not in effect. Is having such an exclusion appropriate?

(14) Should a new definition of ''Covered Business'' be added to narrow the Businesses covered by specific requirements of the rule, in particular the preventative requirements in § 464.2(b)? If so, how should ''Covered Businesses'' be defined?

(a) Should the definition of ''Covered Business'' be limited to businesses in the live-event ticketing and/or short-term lodging industries?

i. If so, how should Businesses in the live-event ticketing industry be defined? If they are defined as ''any Business that makes live-event tickets available, directly or indirectly, to the general public,'' is that definition clear and understandable? Is it ambiguous in any way? How, if at all, should that definition be improved?

ii. If so, how should Businesses in the short-term lodging industry be defined? If they are defined as ''any Business that makes temporary sleeping accommodations available, directly or indirectly, to the general public,'' is that definition clear and understandable? Is it ambiguous in any way? How, if at all, should that definition be improved?

(b) Should the definition of ''Covered Business'' exclude small businesses? If so, how should ''small businesses'' be defined?

i. If ''Covered Business'' is defined to ''include all of the following: (1) any Business that does not satisfy both the Small Business Administration's definition of a small business concern (13 CFR 121.105) and the Small Business Administration's Table of Size Standards (13 CFR 121.201); (2) any Business, regardless of size, that offers goods or services in the live-event ticketing industry; and (3) any Business, regardless of size, that offers goods or services in the short-term accommodations industry,'' is that definition clear and understandable? Is it ambiguous in any way? How, if at all, should that definition be improved? Are there industries other than live-event ticketing and short-term accommodations that should be subject to all the proposed requirements of the rule, regardless of size?

ii. What are the relevant sources of data that reflect the costs and benefits that the proposed rule would have on Covered Businesses if this definition is added to the proposed rule?

(c) Should a definition of ''Covered Business'' exclude businesses to the extent that they offer or advertise credit, lease, or savings products, or to the extent that they extend credit or leases or provide savings products to consumers? In the alternative, should the definition exclude certain of these businesses or products from only certain provisions? If so, specifically, which businesses and products, which provisions of the proposed rule, and why and how, or why not?

(d) Should a definition for ''Covered Business'' be limited to businesses that offer goods or services online and in mobile applications? Why or why not?

i. If so, how should such businesses be defined?

ii. What are the relevant sources of data that reflect the costs and benefits that the proposed rule would have on Covered Businesses if they are defined in this way?

iii. What are the relevant sources of data that reflect differences in costs for online versus brick-and-mortar stores? Provide all available data, statistics, and evidence.

(15) Should a definition for ''Covered Business'' exclude limited-service and full-service restaurants that satisfy both the Small Business Administration's definition of a small business concern (13 CFR 121.105) and the Small Business Administration's Table of Size Standards (13 CFR 121.201)?

(16) Should the proposed definition for ''Total Price'' contain an exception for ''mandatory charges by restaurants for service performed for the customer in lieu of tips, as defined by the Department of Labor (29 CFR 531.52)''?

(17) Does the proposed definition for ''Total Price'' provide sufficient clarity for industries that calculate charges based on increments of time? Why or why not?

(18) The proposed definition of Total Price allows Shipping Charges to be excluded. Shipping Charges are defined as ''the fees or charges that reasonably reflect the amount a Business incurs to

send physical goods to a consumer through the mail, including private mail services'' § 464.1(f). Is this provision clear and understandable? Is this provision ambiguous in any way? How, if at all, should this provision be improved?

(a) Does the proposed definition of ''Shipping Charges'' effectively allow Businesses to pass along reasonable costs of shipping to consumers without permitting artificial inflation of such costs?

(b) How would this provision impact the assessment and calculation of shipping costs across industries, and in particular industries?

(c) What are the relevant sources of data that reflect the manner in which firms calculate shipping costs? Provide all available data, statistics, and evidence.

(19) Does the proposed definition of Total Price provide sufficient clarity for industries that ''all fees or charges a consumer must pay for a good or service and any mandatory Ancillary Good or Service'' includes (1) all fees or charges that are not reasonably avoidable and (2) all fees or charges for goods or services that a reasonable consumer would expect to be included with the purchase?

C. § 464.2: Hidden Fees Prohibited

(20) Section 464.2(a) of the proposed rule states, ''[i]t is an unfair and deceptive practice and a violation of this part for any Business to offer, display, or advertise an amount a consumer may pay without Clearly and Conspicuously disclosing the Total Price.'' Is this prohibition clear and understandable? Is this prohibition ambiguous in any way? How, if at all, should this prohibition be improved?

(21) Section 464.2(b) of the proposed rule states, ''[i]n any offer, display, or advertisement that contains an amount a consumer may pay, a Business must display the Total Price more prominently than any other Pricing Information.'' Is this prohibition clear and understandable? Is this prohibition ambiguous in any way? How, if at all, should this prohibition be improved?

(22) Should the proposed rule address the itemization of fees and charges that make up the ''Total Price?'' If so, how should the proposed rule address itemization and why?

(23) By requiring mandatory fees to be included in the Total Price, does the requirement in 464.2(a) effectively eliminate fees that provide little or no value to the consumer in exchange for the charge? Why or why not? Are there any such fees that would not be eliminated by the proposed rule?

(24) Should the proposed rule explicitly prohibit fees that provide little or no value to the consumer in exchange for the charge? Why or why not? Should such a rule apply to optional fees? Why or why not? What should the Commission consider in determining if a fee provides little or no value to the consumer?

(25) Should the proposed rule prohibit fees that are excessive? Why or why not? How would such a rule define excessive fees?

D. § 464.3: Misleading Fees Prohibited

(26) Section 464.3(a) of the proposed rule states, ''[i]t is an unfair and deceptive practice and a violation of this part for any Business to misrepresent the nature and purpose of any amount a consumer may pay, including the refundability of such fees and the identity of any good or service for which fees are charged.'' Is this prohibition clear and understandable? Is this prohibition ambiguous in any way? How, if at all, should this prohibition be improved?

(a) Does § 464.3(a)'s provision prohibiting misrepresentations regarding ''the nature and purpose of any amount a consumer may pay'' provide sufficient clarity that it includes any amount included in the Total Price if that amount is also itemized separately from the Total Price?

(b) Does § 464.3(a)'s provision prohibiting misrepresentations regarding ''the nature and purpose of any amount a consumer may pay'' provide sufficient clarity that it includes any amount excluded from the Total Price such as Shipping Charges, Government Charges, optional charges, voluntary gratuities, and invitations to tip?

(27) Section 464.3(b) of the proposed rule states, ''[a] Business must disclose Clearly and Conspicuously before the consumer consents to pay the nature and purpose of any amount a consumer may pay that is excluded from the Total Price, including the refundability of such fees and the identity of any good or service for which fees are charged.'' Is this prohibition clear and understandable? Is this prohibition ambiguous in any way? How, if at all, should this prohibition be improved?

(a) Section 464.3(b) of the proposed rule requires certain disclosures ''before the consumer consents to pay.'' Should the proposed rule instead require Businesses to disclose Clearly and Conspicuously the nature and purpose of any amount a consumer may pay that is excluded from the Total Price ''before the consumer consents to pay and before obtaining a consumer's billing information''?

(b) Section 464.3(b) of the proposed rule requires disclosures regarding ''the nature and purpose of any amount a consumer may pay that is excluded from the Total Price.'' Does this provision provide sufficient clarity that it includes Shipping Charges, Government Charges, optional charges, voluntary gratuities, and invitations to tip?

E. Industry-Specific Practices

(28) What are the relevant sources of data that reflect the frequency of, and reasons for, abandoned transactions in the live-event ticket market? Provide all available data, statistics, and evidence.

(29) What are the relevant sources of data that reflect the total annual number of live-event ticket purchases? What are the relevant sources of information that separate total annual ticket purchases into primary and secondary ticket sales? Provide all available data, statistics, and evidence.

(30) What are the relevant sources of data that reflect the number of live-event ticket sellers currently charging hidden mandatory fees? Provide all available data, statistics, and evidence.

(31) The comments identified additional problematic practices regarding live events, including unfair dynamic pricing, transferability restrictions, lack of transparency regarding ticket holdbacks, lack of transparency regarding speculative tickets, and the use of bots. How prevalent are these acts and practices and should the proposed rule be modified to address any of these practices? Provide all available data and evidence that supports your answer, such as empirical data, statistics, consumer-perception studies, and consumer complaints.

(32) What are the relevant sources of data that reflect the frequency of, and reasons for, abandoned transactions in the short-term lodging industry? Provide all available data, statistics, and evidence.

(33) What are the relevant sources of data that reflect the number of hotel firms that impose resort fees or other similar mandatory fees? Provide all available data, statistics, and evidence.

(34) What are the relevant sources of data that reflect the number of individual home share hosts in the US? Provide all available data, statistics, and evidence.

(35) What are the relevant sources of data that reflect the number of restaurants currently charging mandatory fees?

(36) What are the relevant sources of data that reflect the number of restaurants that charge each type of fee (such as credit card surcharge fees, kitchen fees, economic impact or inflation fees, mandatory service fees in lieu of tips, or mandatory service fees that do not replace tips) being used by restaurants?

(37) What are the relevant sources of data that reflect the number of restaurants that have moved away from the traditional tipping model? Provide all available data, statistics, and evidence.

(a) What are the relevant sources of data that reflect the number of such restaurants that do not request tips?

(b) What are the relevant sources of data that reflect the number of such restaurants that impose on customers, regardless of the size of the party, mandatory charges for service performed for the customer in lieu of tips?

XI. Comment Submissions

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before January 8, 2024. Write ''Unfair or Deceptive Fees, R207011'' on your comment. Your comment—including your name and your State—will be placed on the public record of this proceeding, including, to the extent practicable, on the website *https://www.regulations.gov.*

Because of the agency's heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the *https://www.regulations.gov* website. To ensure that the Commission considers your online comment, please follow the instructions on the web-based form.

If you file your comment on paper, write ''Unfair or Deceptive Fees NPRM, R207011'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex J), Washington, DC 20580. If possible, please submit your paper comment to the Commission by overnight service.

Because your comment will be placed on the public record, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not contain sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other State identification number or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''[t]rade secret or any commercial or financial information which . . . is privileged or confidential''—as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at *https://www.regulations.gov*—as legally required by FTC Rule 4.9(b), 16 CFR 4.9(b)—we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this document and the news release describing it, and visit *https://www.regulations.gov/docket/FTC-2023-0064* to read a plain-language summary of the proposed rule. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments it receives on or before January 8, 2024. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/siteinformation/privacypolicy.*

XII. Communications by Outside Parties to the Commissioners or Their Advisors

Under Commission Rule 1.18(c)(1), 16 CFR 1.18(c)(1), the Commission has determined that communications with respect to the merits of this proceeding from any outside party to any Commissioner or Commissioner advisor will be subject to the following treatment: written communications and summaries or transcripts of all oral communications must be placed on the rulemaking record. Unless the outside party making an oral communication is a member of Congress, communications received after the close of the public-comment period are permitted only if advance notice is published in the Weekly Calendar and Notice of ''Sunshine'' Meetings.

List of Subjects in 16 CFR Part 464

Consumer protection, Trade practices, Advertising.

■ For the reasons set forth in the preamble, the Federal Trade Commission proposes to amend 16 CFR Chapter I by adding part 464 to read as follows:

PART 464—RULE ON UNFAIR OR DECEPTIVE FEES

Sec.

Authority: 15 U.S.C. 41–58.

§ 464.1 Definitions

(a) *Ancillary Good or Service* means any additional good(s) or service(s) offered to a consumer as part of the same transaction.

(b) *Business* means an individual, corporation, partnership, association, or any other entity that offers goods or services, including, but not limited to, online, in mobile applications, and in physical locations. Motor vehicle dealers that must comply with 16 CFR part 463, requiring motor vehicle dealers to disclose the full cash price for which a dealer will sell or finance the motor vehicle to any consumer, and prohibiting motor vehicle dealers from making misrepresentations, are exempted from the definition of ''Business'' for all purposes under this part.

(c) *Clear(ly) and Conspicuous(ly)* means a required disclosure that is difficult to miss (*i.e.,* easily noticeable) and easily understandable, including in all of the following ways:

(1) In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the

communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.

(2) A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.

(3) An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.

(4) In any communication using an interactive electronic medium, such as the internet or software, the disclosure must be unavoidable.

(5) The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.

(6) The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

(7) The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

(8) When the representation or sales practice targets a specific audience, such as children, older adults, or the terminally ill, ''ordinary consumers'' includes reasonable members of that group.

(d) *Government Charges* means all fees or charges imposed on consumers by a Federal, State, or local government agency, unit, or department.

(e) *Pricing Information* means any information relating to an amount a consumer may pay.

(f) *Shipping Charges* means the fees or charges that reasonably reflect the amount a Business incurs to send physical goods to a consumer through the mail, including private mail services.

(g) *Total Price* means the maximum total of all fees or charges a consumer must pay for a good or service and any mandatory Ancillary Good or Service, except that Shipping Charges and Government Charges may be excluded.

§ 464.2 Hidden Fees Prohibited.

(a) It is an unfair and deceptive practice and a violation of this part for any Business to offer, display, or advertise an amount a consumer may pay without Clearly and Conspicuously disclosing the Total Price.

(b) In any offer, display, or advertisement that contains an amount a consumer may pay, a Business must display the Total Price more prominently than any other Pricing Information.

§ 464.3 Misleading Fees Prohibited.

(a) It is an unfair and deceptive practice and a violation of this part for any Business to misrepresent the nature and purpose of any amount a consumer may pay, including the refundability of such fees and the identity of any good or service for which fees are charged.

(b) A Business must disclose Clearly and Conspicuously before the consumer consents to pay the nature and purpose of any amount a consumer may pay that is excluded from the Total Price, including the refundability of such fees and the identity of any good or service for which fees are charged.

§ 464.4 Relation to State Laws.

(a) *In General.* This part will not be construed as superseding, altering, or affecting any State statute, regulation, order, or interpretation relating to unfair or deceptive fees or charges, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this part, and then only to the extent of the inconsistency.

(b) *Greater protection under State law.* For purposes of this Section, a State statute, regulation, order, or interpretation is not inconsistent with the provisions of this part if the protection such statute, regulation, order, or interpretation affords any consumer is greater than the protection provided under this part.

Appendix A to Part 464: Short-Term Lodging Industry Minutes per Listing Calculations

1. Low-End Estimate of Minutes per Listing Calculation

We use the Airbnb user search statistics reported in Fradkin (2017) to obtain a low-end estimate of minutes to view one listing after clicking on it. The paper provides data on a random sample of users who searched for short-term rentals on Airbnb in a large U.S. city. It reports search behavior separately for all searchers and for searchers who contacted the host, either to inquire about a listing or to book it. We use those numbers to calculate search behavior for the group of searchers who did not send a contact. The relevant statistics for these three groups are summarized in Table A.1.

''Average unique listings seen'' includes all listings users see on a search result page, including listings users do not click on. ''Average time spent browsing'' includes entering search parameters, scrolling through results, and viewing listings after clicking on them. ''Average number of contacts'' is the average number of times searchers contacted a host for a listing. Since contacting the host requires users to click on the listing, we use this to proxy for number of clicked-on listings.

TABLE A.1

	(1) All searchers	(2) Searchers who sent at least one contact	(3) Searchers who did not send a contact
Observations	12,241	4,426	7,815
Average unique listings seen	68.53	87.81	57.61
Average time spent browsing (min)	35.77	57.87	23.25
Average number of contacts (proxy for clicks)	.....	2.37	.....

From the third column, we calculate:

Time to view each listing without clicks = Average time spent browsing/Average unique listings seen = 23.253/57.61 = .40 minutes per listing.

Because the average time spent browsing for the group in column (2) is inclusive of the amount of time spent sending contacts, not just viewing listings that were not contacted, we use the preceding value calculated from the group in column (3) to estimate the following that applies to searchers in column 2:

Time spent viewing listings without clicks = Time to view each listing without clicks * Average unique listings seen = .40 * 87.812 = 35.44 minutes

and

Average total time viewing listings after clicking = Average time spent

browsing − Time spent viewing listings without clicks = 57.874 − 35.44 = 22.43 minutes.

Finally, we calculate time to view one listing:

Time per listing = Average total time viewing listings after clicking/Average number of contacts = 22.43/2.367 = 9.48 minutes per listing.[380]

[380] The numerator of ''Time per listing'' is an underestimate because ''Time spent browsing without clicks'' may capture some time spent viewing clicked-on listings that didn't result in a contact. The denominator of ''Time per listing'' is also an underestimate because the number of listings clicked on is proxied using the number of listings users book or send an inquiry about. Users may click on more listings than just the ones they want to inquire about or book. The two values are related. If the true denominator is higher than what we estimate, then the true numerator will be higher too. Higher listing clicks beyond those that resulted in a contact means more time spent viewing clicked-on listings that didn't result in a contact. The ratio should remain about the same.

2. Upper-End Estimate of Minutes per Listing Calculation

We use the hotel search cost model developed by Chen and Yao (2016) to calculate an upper-end estimate of minutes to view one listing. The paper uses data from consumer search behavior when booking hotels in four major international cities on an anonymous major U.S. online travel website.

A search is defined as a listing click-through, and the search cost for a listing is specified as:

$c_{ij} = c_i(TimeConstraint_i, Slot_j) = \exp(\gamma_{i0} + \gamma_{i1} TimeConstraint_i + \gamma_{i2} Slot_j) = \exp(3.07 - .05 * TimeConstraint_j + .01 * Slot_j$

where $TimeConstraint_i$ is the number of days between consumer i's search and her check-in. $Slot_j$ is the slot position of the j-th search. The exponential operator ensures that the costs are positive. The gammas are mean levels of cost coefficients.

Using this we can find that the mean search cost per listing when 30 days in advance (the sample average) is exp(3.07 − (.05*30)) = $4.81 per listing. The inflation adjusted value is $5.86.

From this we find that total search cost is then $5.86 per listing * 2.3 searches on average = $13.48. This total cost can be conceptualized as the number of minutes of viewing listings multiplied by the consumer's value of time. Using $24.40 per hour as the value of time, we find that the time spent viewing listings is ($13.48/$24.40 per hour) * 60 minutes per hour = 33.15 minutes.

We can calculate the minutes to view one listing as 33.15 minutes/2.3 searches = 14.41 minutes per listing.

By direction of the Commission.

April J. Tabor,

Secretary.

[FR Doc. 2023–24234 Filed 11–8–23; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL REGISTER

Vol. 88 Thursday,
No. 216 November 9, 2023

Part III

The President

Notice of November 7, 2023—Continuation of the National Emergency With Respect to Iran

Federal Register
Vol. 88, No. 216
Thursday, November 9, 2023

Presidential Documents

Title 3—

The President

Notice of November 7, 2023

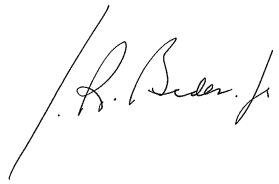
Continuation of the National Emergency With Respect to Iran

On November 14, 1979, by Executive Order 12170, the President declared a national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and took related steps to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the situation in Iran.

Our relations with Iran have not yet normalized, and the process of implementing the agreements with Iran, dated January 19, 1981, is ongoing. For this reason, the national emergency declared on November 14, 1979, and the measures adopted on that date to deal with that emergency, must continue in effect beyond November 14, 2023. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Iran declared in Executive Order 12170.

The emergency declared by Executive Order 12170 is distinct from the emergency declared in Executive Order 12957 on March 15, 1995. This renewal, therefore, is distinct from the emergency renewal of March 10, 2023.

This notice shall be published in the *Federal Register* and transmitted to the Congress.



THE WHITE HOUSE,
November 7, 2023.

[FR Doc. 2023–25006
Filed 11–8–23; 11:15 am]
Billing code 3395–F4–P

Reader Aids

Federal Register

Vol. 88, No. 216

Thursday, November 9, 2023

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FEDERAL REGISTER PAGES AND DATE, NOVEMBER

74877–75226 1
75227–75450 2
75451–76096 3
76097–76624 6
76625–76988 7
76989–77194 8
77195–77490 9

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
10659 74877
10660 75451
10661 75453
10662 75455
10663 75457
10664 75461
10665 75463
10666 76465
10667 75469
10668 75473

Executive Orders:
14110 75191

Administrative Orders:
Notices:
Notice of October 31, 2023 75227
Notice of November 1, 2023 75475
Notice of November 3, 2023 76987
Notice of November 7, 2023 77489

5 CFR

Proposed Rules:
890 75744

7 CFR

205 75394
1260 76097

Proposed Rules:
982 77233
1000 76143

10 CFR

Proposed Rules:
50 ..... 76143, 76989
51 76143
52 76989
71 76143
430 76510

12 CFR

Proposed Rules:
701 76702
741 76702
746 76702
748 76702
752 76702

13 CFR

130 76625

14 CFR

39 ..... 75477, 76102, 76104, 76107, 76110, 76112, 76114, 76117, 76652
71 ..... 75480, 75481, 75483, 75484, 75486, 75488, 76122, 76655
95 76123
97 ..... 77195, 77196

Proposed Rules:
25 ..... 75513, 75517
39 ..... 75520, 76144, 76147, 77044, 77060, 77236
61 74908
63 74908
65 74908
71 ..... 75241, 75242, 76150, 76152, 76153, 76155, 76157, 76158, 77238
141 74908

15 CFR

744 76128
748 76990
922 75229

16 CFR

Proposed Rules:
464 77420
1264 74909
1408 76717

17 CFR

232 76896
240 ..... 75100, 75644, 76896
249 75100

Proposed Rules:
232 76282
240 76282

18 CFR

40 74879

21 CFR

73 75490
864 77198

Proposed Rules:
1 74939
180 75523

24 CFR

891 75230

26 CFR

Proposed Rules:
1 76717
31 76717
54 75744
301 76717

28 CFR

543 76656

Proposed Rules:
345 77064
545 77064

29 CFR

1406 76658
4000 76660

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List October 10, 2023

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